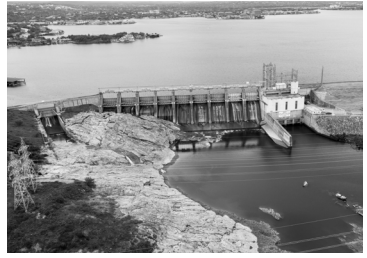


LOWER COLORADO RIVER AUTHORITY

# ENABLING LEGISLATION

As amended

*Current through the 89th regular session of the Texas Legislature – 2023*



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## **LCRA'S MISSION**

*To enhance the quality of life of the Texans we serve through water stewardship, energy and community service.*

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## **Chapter 8503, Special District Local Laws Code**

### **LOWER COLORADO RIVER AUTHORITY**

#### **Sec. 8503.001 — Creation**

- (a) A conservation and reclamation district to be known as the “Lower Colorado River Authority” is created. The authority is a governmental agency and a body politic and corporate.
- (b) The authority is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, including the control, storing, preservation, and distribution of the waters of the Colorado River and its tributaries within the boundaries of the authority for irrigation, generation of electric energy and power, and other useful purposes; the reclamation and irrigation of arid, semiarid, and other lands needing irrigation; the development of parks on lands owned or acquired by the authority; and the conservation and development of the forests, water, and electric power in this state.
- (c) Nothing in this chapter or in any other law shall be construed as authorizing the authority to levy or collect taxes or to create any indebtedness payable out of taxes or in any way to pledge the credit of this state.

#### **Sec. 8503.002 — Definitions**

In this chapter:

- (1) “Authority” means the Lower Colorado River Authority.
- (2) “Board” means the board of directors of the authority.
- (2-a) “Commission” means the Texas Commission on Environmental Quality.
- (3) “Director” means a member of the board.

#### **Sec. 8503.0021 — Application of Sunset Act**

- (a) The authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. The review shall not include the management of the

generation or transmission of electricity under the wholesale electricity operation of the authority and the authority's affiliated nonprofit corporations. The review shall be conducted under Section 325.025, Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2031, and every 12th year after that year.

- (b) In anticipation of the sunset review under Subsection (a), based on the results of an audit, including a performance-related audit, conducted by the state auditor before December 1, 2016, the state auditor may make recommendations to the legislature, including whether a review conducted under Subsection (a) should include the financial operation and management of the generation or transmission of electricity under the wholesale electricity operation of the authority and the authority's affiliated nonprofit corporations.
- (c) The authority shall pay the cost incurred by the Sunset Advisory Commission in performing the review under Subsection (a). The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

### **Sec. 8503.003 — Territory**

The authority consists of the territory included within the boundaries of the counties of Blanco, Burnet, Llano, Travis, Bastrop, Fayette, Colorado, Wharton, San Saba, and Matagorda.

### **Sec. 8503.004 — Powers and Duties**

- (a) Except as expressly limited by this chapter, the authority has all the powers, rights, privileges, and functions conferred by general law on any district or districts created under Section 59, Article XVI, Texas Constitution.
- (b) The authority may control, store, and preserve, within the boundaries of the authority, the waters of the Colorado River and its tributaries and the lands of the authority for any useful purpose and may use, distribute, and sell those waters, within the boundaries of the authority or within the boundaries of the watershed that contributes inflow to the Colorado River below the intersection of Coleman, Brown, and McCulloch counties, for any such purpose.

- (c) The authority may develop and generate water power and electric energy within the boundaries of the authority and may distribute and sell water power and electric energy, within or outside the boundaries of the authority.
- (d) Within the boundaries of the authority, the authority may prevent or aid in the prevention of damage to person or property from the waters of the Colorado River and its tributaries.
- (e) Within the boundaries of the authority, the authority may forest and reforest and aid in the foresting and reforesting of the watershed area of the Colorado River and its tributaries, and the authority may prevent and aid in the prevention of soil erosion and floods within the watershed area.
- (f) The authority may acquire by purchase, lease, or gift or in any other manner provided by law and may maintain, use, and operate property of any kind, real, personal, or mixed, or any interest in property, within or outside the boundaries of the authority that is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.
- (g) The authority may acquire by condemnation property of any kind, real, personal, or mixed, or any interest in property, within or outside the boundaries of the authority, other than property or an interest in property outside the boundaries of the authority owned by a body politic, that is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter. The authority shall exercise the condemnation power in the manner provided by general law with respect to condemnation or, at the option of the authority, in the manner provided by state law relating to condemnation by districts organized under general law under Section 59, Article XVI, Texas Constitution.
- (h) Subject to the provisions of this chapter, the authority may sell or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in the property, that is not necessary to the conduct of the business of the authority.
- (i) The authority may overflow and inundate within the boundaries of the authority any public lands and public property and may require the relocation of roads, pipelines, transmission lines, railroads, cemeteries, and highways in the manner and to the

extent permitted to districts organized under general law under Section 59, Article XVI, Texas Constitution.

- (j) The authority may construct, extend, improve, maintain, and reconstruct, cause to be constructed, extended, improved, maintained, and reconstructed, and use and operate facilities of any kind necessary or convenient to the exercise of its powers, rights, privileges, and functions.
- (k) The authority may sue and be sued in its corporate name.
- (l) The authority may adopt and use a corporate seal.
- (m) The authority may make bylaws for the management and regulation of its affairs.
- (n) The authority may appoint officers, agents, and employees, prescribe their duties, and set their compensation.
- (o) The authority may make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter or permitted by general law.
- (p) The authority may borrow money for its corporate purposes on notes or other written evidence of indebtedness for a period not to exceed five years as may be authorized from time to time by an affirmative vote of 12 members of the board and repay the loans or indebtedness from the proceeds of bonds of the authority at the next bond offering. The authority may borrow money and accept grants from the United States, this state, or any corporation or agency created or designated by the United States or this state and, in connection with the loan or grant, may enter into an agreement that the United States, this state, or the corporation or agency requires. The authority may make and issue negotiable bonds for money borrowed in the manner provided by Sections 8503.013 and 8503.014 or other general law. This chapter does not authorize the issuance of any bonds, notes, or other evidences of indebtedness of the authority except as specifically provided by this chapter or other general law.
- (q) The authority may provide for the study, correcting, and control of both artificial and natural pollution, including organic, inorganic, and thermal, of all groundwater or surface water of the Colorado



River and its tributaries within the boundaries of the authority. The authority may adopt by ordinance rules with regard to the pollution, both artificial and natural, and possesses police power to enforce its rules. The authority may provide a reasonable penalty for the violation of any rule. The penalty is cumulative of any penalties fixed by the general law of this state. A penalty under this subsection may not exceed the limit for penalties provided by Section 49.004, Water Code. An ordinance enacted under this section may not be adopted in any county or counties outside the existing boundaries of the authority.

- (r) As a necessary aid to the conservation, control, preservation, purification, and distribution of surface waters and groundwater of the Colorado River and its tributaries within the boundaries of the authority, the authority may construct, own, operate, maintain, or otherwise provide sewage gathering, treatment, and disposal services, including waste disposal services, and may make contracts regarding those services with the United States, this state, counties, municipalities, and others. The authority shall charge the actual cost of those services.
- (s) The authority may develop and manage parks, recreational facilities, and natural science laboratories and may promote the preservation of fish and wildlife within the boundaries of the authority. The authority may negotiate contracts with any county, municipality, municipal corporation, person, firm, corporation, nonprofit organization, or state or federal agency for the operation and maintenance of any such park, recreational facility, or natural science laboratory. The preservation of fish and wildlife shall be in accordance with the rules of the Parks and Wildlife Commission. Notwithstanding any other provisions of this chapter, the board may charge and collect reasonable entrance, gate, or use fees for the development, management, and use of parks and recreational facilities developed in whole or in part by the authority.
- (t) The authority may enter into agreements authorized by Chapter 163, Utilities Code, to acquire, install, construct, operate, enlarge and make additions to, and own and operate electric power and energy generating facilities as provided by that chapter, in joint ownership with others, either as cotenants or under any other arrangements that are approved by a three-fourths vote of the statutory membership of the board. In accordance with and subject to the terms of the agreements, if any, the authority may sell or otherwise dispose of

any or all of its interest in the jointly owned electric power and generating facilities. This subsection does not apply to generating facilities or other property wholly owned by the authority.

- (u) The authority may do any and all other acts or things necessary or convenient, including controlling the use of the surface of a lake or island located in the lake developed by the authority and levying a charge for the commercial use of the lake or island, to the exercise of all powers, rights, privileges, authority, or functions conferred on the authority by the constitution, this chapter, or any law.
- (v) The authority may enter into contracts with this state through the comptroller providing for direct sale by the authority of electrical power to this state for use in buildings or other facilities owned, leased, or rented by this state in Travis County.

#### **Sec. 8503.005 – Limitations of Authority**

- (a) The authority may not use for irrigation purposes any water under any permit or permits acquired from any other company or person unless the use is expressly authorized and granted to the authority by the commission or its predecessor agency under authority of law. In considering subsequent applications by the authority, the commission shall at all times consider the needs of the people living within and on lands lying within the watershed of the Colorado River and its tributaries above the authority.
- (b) Notwithstanding any rights or permits issued by the commission or its predecessor agency that are held or acquired by the authority, the impounding and use of the floodwaters of the Colorado River or its tributaries for the generation of hydroelectric power by the authority or anyone who may succeed to the rights and privileges conferred on the authority by this chapter are subject to the rights of a person, municipal corporation, or body politic that, under legal grant of authority, is impounding and putting to beneficial use the waters if the person, municipal corporation, or body politic:
  - (1) has received a permit for the use from the commission, or its predecessor agency; or
  - (2) is permitted by law to impound water for the purposes described by this subsection.

- (c) Nothing in this chapter shall be construed to require a municipal corporation or body politic to surrender to the authority any rights described by this section to which it may be legally entitled.
- (d) This chapter may not be construed to subject to condemnation by the authority or any successor, or by anyone who may succeed to the rights and privileges conferred on the authority by this chapter, any waters:
  - (1) impounded or to be impounded within or outside the authority under any law authorizing water to be impounded or under any permits granted to a municipal corporation or body politic; or
  - (2) impounded or permitted to be impounded or used outside the authority under permits legally granted to any person.
- (e) Nothing in this chapter shall be construed as depriving any person or municipality of the right, legally granted, to impound the waters of the Colorado River or its tributaries for authorized beneficial uses or as repealing any law granting those rights to persons and municipalities.
- (f) The rights of the authority to impound or use or sell the waters of the Colorado River and its tributaries for the generation of hydroelectric power are subordinate and inferior to the rights of:
  - (1) municipalities situated within the boundaries of the authority to build dams and impound floodwaters solely for municipal purposes;
  - (2) municipalities and bodies politic within the watershed of the Colorado River outside the authority to build dams or impound floodwaters for municipal purposes; and
  - (3) bodies politic within the watershed of the Colorado River to build dams and impound the floodwaters within the watershed of the Colorado River and its tributaries for domestic purposes inside and outside the boundaries of the authority.
- (g) The title to any rights, properties, licenses, franchises, or permits acquired by the authority shall be subject to the limitations imposed by Subsection (f).

## Sec. 8503.006 — Board of Directors

- (a) The powers, rights, privileges, and functions of the authority shall be exercised by the board. The board shall consist of 15 directors and shall include at least one director from each of the counties named in Section 8503.003 except Travis County, which shall have two directors. Three directors shall be appointed at large from the counties served with electric power, other than the counties included in Section 8503.003.
- (b) A director appointed at large may not serve for a period of more than six consecutive years. A county other than a county included in Section 8503.003 may not be represented on the board for more than six consecutive years. A county other than Travis County may not have two directors for a period greater than six consecutive years.
- (c) All directors shall be appointed by the governor with the advice and consent of the senate for staggered terms of six years, with five members' terms expiring on February 1 of each odd-numbered year.
- (d) Each director must be a resident and freehold property taxpayer of the county from which the director is appointed and must have been a resident and taxpayer of that county for not less than the two years preceding the director's appointment. Not more than two directors may be residents of the same county.
- (e) A person is not eligible for appointment as a director if the person has, during the three years preceding the person's appointment, been employed by an electric power and light company, a telephone company, or any other utility company.
- (f) At the expiration of the term of a director, a successor shall be appointed by the governor with the advice and consent of the senate. Each director shall hold office until the expiration of the term for which the director was appointed and until a successor has been appointed and has qualified, unless removed sooner as provided by this section.
- (g) A director may be removed by the governor for inefficiency, neglect of duty, or misconduct in office after at least 30 days' written notice of the charges against the director and an opportunity to be heard in person or by counsel at a public hearing.
- (h) The governor shall appoint a person to fill a vacancy on the board for the unexpired term.

- (i) Each director shall qualify by taking the official oath of office prescribed by the constitution or general laws of the state.
- (j) Each director is entitled to receive fees of office of not more than \$150 per day and reimbursement of actual expenses incurred in accordance with Chapter 49, Water Code. However, no director may be paid per diem in excess of 150 days in any one calendar year.
- (k) Eight directors constitute a quorum at any meeting and, except as otherwise provided by this chapter or in the bylaws, all action may be taken by the affirmative vote of a majority of the directors present at any meeting, except that bonds, notes, or other evidence of indebtedness are subject to the requirements of Sections 8503.004(p) and 8503.013(f), and no amendment of the bylaws shall be valid unless authorized or ratified by the affirmative vote of at least eight directors, unless otherwise specifically provided by this chapter.
- (l) The board is a state board as contemplated by Section 30a, Article XVI, Texas Constitution.

#### Sec. 8503.0065 — Director Training

- (a) A person who is appointed to and qualifies for office as a director may not vote, deliberate, or be counted as a director in attendance at a board meeting until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
  - (1) the law governing authority operations;
  - (2) the programs, functions, rules, and budget of the authority;
  - (3) the results of the most recent formal audit of the authority;
  - (4) the requirements of:
    - (A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and
    - (B) other laws applicable to members of the governing body of a river authority in performing their duties; and

(5) any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

- (c) A person appointed to the board is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.
- (d) The general manager of the authority shall create a training manual that includes the information required by Subsection (b). The general manager shall distribute a copy of the training manual annually to each director. Each director shall sign and submit to the general manager a statement acknowledging that the director has received and reviewed the training manual.

#### **Sec. 8503.007 — Officers; General Manager; Employees**

- (a) The governor shall designate a director as the presiding officer of the board to serve in that capacity at the pleasure of the governor. The board shall elect one of their number as an assistant presiding officer.
- (b) The board shall select a secretary, who shall keep true and complete records of all proceedings of the board. Until the appointment of a secretary or in the event of the secretary's absence or inability to act, the board shall select a secretary pro tempore.
- (c) The board shall select a general manager. The general manager is the chief executive officer of the authority.
- (d) The board shall select a treasurer, who may also hold the office of secretary.
- (e) The officers described in Subsections (b)-(d) have the powers and duties, hold office for the term, and are subject to removal in the manner as may be provided in the bylaws.
- (f) The board shall set the compensation of the officers. The board may appoint the officers described in Subsections (b)-(d), agents, and employees, may set their compensation and term of office and the method by which they may be removed, and may delegate to them the power and duties it determines proper.

### **Sec. 8503.008 — Disbursement of Funds; Surety Bonds**

- (a) The money of the authority may be disbursed only by checks, drafts, orders, or other instruments signed by the persons authorized by the bylaws or a resolution concurred in by no fewer than a majority of all the directors.
- (b) The general manager, the treasurer, and all other officers, agents, and employees of the authority charged with the collection, custody, or payment of any funds of the authority must give bond conditioned on the faithful performance of their duties and an accounting for all funds and property of the authority coming into their hands.
- (c) The bonds must be in a form and amount, and with a surety company authorized to do business in this state, approved by the board.
- (d) The premiums on the bonds shall be paid by the authority and charged as an operating expense.

### **Sec. 8503.009 — Office; Records**

- (a) The domicile of the authority is in the city of Austin, Travis County, where the authority shall maintain its principal office in the charge of the general manager.
- (b) The authority shall keep complete and accurate accounts conforming to approved methods of bookkeeping.
- (c) The accounts and all contracts, documents, and records of the authority shall be kept at the principal office. The accounts and contracts shall be open to public inspection at all reasonable times.
- (d) The board shall cause to be made and completed, within 90 days after the end of each fiscal year, an audit of the books of account and financial records of the authority for that fiscal year. The audit shall be made by an independent certified public accountant or firm of certified public accountants.
- (e) Copies of a written report of the audit certified by the accountant or accountants must be placed and kept on file with the commission, with the comptroller, and at the principal office of the authority, and be open to public inspection at all reasonable times.

### **Sec. 8503.010 — Conflict of Interest**

The provisions of Chapter 171, Local Government Code, apply to conflicts of interest in the award of authority contracts.

### **Sec. 8503.0105 — Public Engagement Policy**

The board shall develop and implement a policy that provides a structure for public engagement in regard to water supply projects. The policy must include a clear and detailed description of how the authority will seek to actively engage stakeholders, including the possible use of:

- (1) advisory committees;
- (2) community panels;
- (3) town hall meetings; and
- (4) other strategies on a recurring basis.

### **Sec. 8503.0106 — Complaints**

- (a) The authority shall maintain a system to promptly and efficiently act on complaints filed with the authority. The authority shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.
- (b) The authority shall make information available to the public, including on the authority's website, describing its procedures for complaint investigation and resolution.
- (c) The authority shall periodically notify the complaint parties of the status of the complaint until final disposition.
- (d) The authority shall develop a standard form and a procedure for submitting complaints to the authority and shall make that form and procedure available on the authority's website. The authority shall also make available on its website clear information about what a person making a complaint should expect after the complaint is filed, including timelines for response and resolution.



### **Sec. 8503.0107 — Public Testimony**

- (a) In this section, "committee-of-the-whole" means a committee of the board in which every director is a member of the committee, regardless of whether all members are present at a particular meeting of the committee-of-the-whole.
- (b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the authority.
- (c) At each regular meeting of the board and each meeting as a committee-of-the-whole, the board shall include public testimony as a meeting agenda item and allow members of the public to comment on every agenda item and other matters under the jurisdiction of the authority. The board may not deliberate or decide a matter not included in the meeting agenda except to discuss including the matter on the agenda for a subsequent meeting.

### **Sec. 8503.0108 — Alternative Dispute Resolution Procedures**

- (a) The board shall develop a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the authority's jurisdiction.
- (b) The authority's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.
- (c) The authority shall:
  - (1) coordinate the implementation of the policy adopted under Subsection (a);
  - (2) provide training as needed to implement the procedures for alternative dispute resolution; and
  - (3) collect data concerning the effectiveness of those procedures.

## Sec. 8503.011 — Rates and Charges

- (a) The board shall establish and collect rates and other charges for the sale or use of water, water connections, power, electric energy, or other services sold, furnished, or supplied by the authority. The fees and charges must be reasonable and nondiscriminatory and sufficient to produce revenues adequate to:
- (1) pay all expenses necessary to the operation and maintenance of the properties and facilities of the authority;
  - (2) pay the interest on and principal of all bonds issued under this chapter as the interest and principal become due and payable;
  - (3) pay the principal and interest on any legal debt created by the authority;
  - (4) pay all sinking fund and reserve fund payments agreed to be made with respect to bonds and payable out of those revenues, as the payments become due and payable; and
  - (5) fulfill the terms of any agreements made with the bondholders or with any person on their behalf.
- (b) Out of the revenues that may be received in excess of those required for the purposes specified in Subsection (a), the board may:
- (1) establish a reasonable depreciation and emergency fund;
  - (2) retire, by purchase and cancellation or redemption, bonds issued under this chapter; or
  - (3) apply the excess revenues to any corporate purpose.
- (c) The rates and charges of the authority may not be in excess of what is necessary to fulfill the obligations imposed on the authority by this chapter or other law. Nothing in this chapter shall be construed as depriving this state of its power to regulate and control fees or charges to be collected for the use of water, water connections, power, electric energy, or other service; provided, however, that this state pledges to and agrees with the purchasers and successive holders of the bonds and other written evidence of indebtedness issued under this chapter that this state will not limit or alter the power vested in the authority to establish and collect fees and charges that will produce revenues sufficient to pay the

items specified in Subsection (a), or in any way impair the rights or remedies of creditors or bondholders, or of any person on their behalf, until the bonds and other written evidence of indebtedness, together with the interest on the bonds or indebtedness and the interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the authority in connection with the bonds are fully met and discharged.

### **Sec. 8503.012 — Payment of Debts**

Any indebtedness, liability, or obligation of the authority for the payment of money, however entered into or incurred and whether arising from contract, implied contract, or otherwise, is payable solely:

- (1) out of revenues received by the authority with respect to its properties, subject to any prior lien on the revenues conferred by any resolution or resolutions adopted as provided by this chapter authorizing the issuance of bonds; or
- (2) if the board so determines, out of the proceeds of sale by the authority of bonds payable solely from those revenues.

### **Sec. 8503.013 — Issuance of Bonds**

(a) The authority may issue bonds from time to time and for any purpose authorized by this chapter or other general law. If bonds of the authority are issued, except as otherwise provided under general law, the bonds:

- (1) when sold, shall be sold for cash at public sale to the highest and best bidder, as determined by the board, and the interest cost of the money received for the bonds shall be computed to maturity in accordance with the method prescribed by the board in connection with the sale of the bonds;
- (2) may be issued, on terms determined by the board in exchange for property of any kind, real, personal, or mixed, or any interest in property that the board determines necessary or convenient for any corporate purposes, provided that any property acquired through the exchange of bonds is certified in writing before the exchange as being of a value equal to or in excess of the par value of the bonds by an independent

appraisal that is to be kept on file by the authority as a public record, with a copy filed with the state auditor;

- (3) may be issued in exchange for like principal amounts of other obligations of the authority, matured or unmatured; or
  - (4) may be sold to this state or any agency of this state, the United States, or any agency or corporation created or designated by this state or the United States in exchange for cash equal in amount to the principal amount of the bonds sold and the interest cost of the money received for the bonds, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, as determined by the board.
- (b) The proceeds from the sale of the bonds shall be deposited in one or more banks or trust companies and shall be paid out under terms and conditions not in conflict with the provisions of this chapter or other general law that are agreed on between the authority and the purchasers of the bonds.
- (c) The proceeds of the bonds and any net operating revenues derived from the sale of electric power or water that may be available after paying the interest on outstanding bonds and the principal amount of the bonds and after setting aside sufficient funds for working capital, including a reasonable amount for contingencies, and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used:
- (1) to build and construct dams or other structures within the authority, on the Colorado River and its tributaries, for the impounding and storage of floodwater and surface water;
  - (2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power;
  - (3) for the construction of additional lines and the purchase and installation of additional equipment the board considers necessary or expedient to enable the authority to continue to meet the demand for electric power in the areas within the authority directly served by its transmission lines and distribution systems on January 1, 1975, and other areas within the service area served by the authority on January 1, 1975, that cannot receive comparable service from any other power

source and to provide electric power to this state as provided by Section 8503.004; provided, however, that no steam generating capacity shall be installed by the authority, except that the authority may acquire, install, construct, enlarge and make additions to, and operate one or more steam generating plants, the sum of whose aggregate capacity may not be more than 5,000 megawatts, to be located within the boundaries of either one or more of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano, or San Saba counties and to be utilized for the purpose of serving the area directly served by the authority's transmission lines and distribution systems on January 1, 1975, and to provide electric power to this state as provided by Section 8503.004;

- (4) to own or acquire an interest in one or more steam generating plants at any location within or outside the authority, if the plant or plants are owned in conjunction with one or more other utilities, public, private, or municipal, provided that an interest owned or acquired by the authority shall be utilized for the sole purpose of providing electric power and energy only in the areas within the authority directly served by its transmission lines and distribution systems as they existed on January 1, 1975;
  - (5) for the purpose of building dams, levees, or other flood control structures between the city of Austin and the mouth of the Colorado River that are considered necessary and desirable by the board and for acquiring or installing facilities necessary to supply water for irrigation and other useful purposes within the counties composing the authority; and
  - (6) in aid of any soil conservation or soil reclamation projects within the authority that the board determines to be in the public interest.
- (d) Nothing in this section shall be construed as establishing priorities as to uses of water that are contrary to the general laws of this state with reference to the water uses.
- (e) Except as otherwise provided by general law, proceeds of bonds sold by the authority, and any net operating revenues that the board determines are not needed to carry out the projects set out in Subsections (c)(1), (2), and (3), to the extent not required by an

outstanding trust indenture to be used to redeem outstanding bonds, shall be placed in a general revenue fund of the authority. Dams built on the Colorado River or on its tributaries shall be used for the purpose of impounding and storing floodwaters and surface waters.

- (f) Bonds shall be authorized by resolution of the board concurred in by at least 12 of the members.
- (g) Bonds shall bear the date or dates, mature at the time or times, bear interest at the rates, payable annually or semiannually, be in the denominations, be in the form, either coupon or registered, carry the registration privileges as to principal only or as to both principal and interest and as to exchange of coupon bonds for registered bonds or vice versa and exchange of bonds of one denomination for bonds of other denominations, be executed in the manner, and be payable at the place or places within or outside this state that the resolution may provide.
- (h) A resolution authorizing bonds may contain provisions that are part of the contract between the authority and the holder of the bonds from time to time:
  - (1) reserving the right to redeem the bonds at the time or times, in the amounts, and at the prices, not exceeding 105 percent of the principal amount of the bonds, plus accrued interest, as may be provided;
  - (2) providing for the setting aside of interest and sinking funds or reserve funds and the regulation and disposition of those funds;
  - (3) pledging, to secure the payment of the principal of and interest on the bonds and of the sinking fund or reserve fund payments agreed to be made with respect to the bonds, all or any part of the gross or net revenues received by the authority with respect to the property, real, personal, or mixed, acquired or constructed or to be acquired or constructed with the bonds or the proceeds of the bonds, or all or any part of the gross or net revenues previously or thereafter received by the authority from any source;
  - (4) prescribing the purposes to which the bonds or any bonds issued later are to be applied;

- (5) agreeing to set and collect rates and charges sufficient to produce revenues adequate to pay the items specified in Section 8503.011(a) and prescribing the use and disposition of all revenues;
- (6) prescribing limitations on the issuance of additional bonds and on the agreements that may be made with the purchasers and successive holders of the bonds;
- (7) relating to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the authority and the carrying of insurance on all or any part of the properties covering loss or damage or loss of use and occupancy resulting from specified risks;
- (8) setting the procedure, if any, by which, if the authority so desires, the terms of a contract with the bondholders may be amended or abrogated, the amount of bonds whose holders must consent to that amendment or abrogation, and the manner in which the consent may be given;
- (9) providing for the execution and delivery by the authority, to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the bondholders setting forth all of the agreements authorized by this chapter to be made with or for the benefit of the bondholders and other provisions that are customary in those kinds of indentures or agreements; and
- (10) making other provisions, not inconsistent with this chapter or other general law, that the board approves, provided that an agreement, contract, or commitment may not be made that, under any contingency, could or would result in the United States government or any of its agencies or bureaus claiming the right or privilege of controlling or managing the properties and facilities of the authority or the control or disposition of the water of the Colorado River or its tributaries; provided, however, that nothing in this chapter shall be construed as limiting or restricting the rights or powers as set out in Section 8503.014 in the event of a default on the part of the authority; and provided further that nothing in this chapter is intended to prohibit compliance with existing federal regulations, if compliance with those regulations is done on the advice and approval of the attorney general.

## Sec. 8503.014 — Default Procedures

- (a) A resolution authorizing the issuance of bonds and any indenture or agreement entered into under the resolution may include provisions regarding a default on:
- (1) the payment of the interest on the bonds as the interest becomes due and payable;
  - (2) the payment of the principal of the bonds as they become due and payable, whether at maturity, by call for redemption, or otherwise; or
  - (3) the performance of an agreement made with the purchasers or successive holders of any bonds.
- (b) If a default described by Subsection (a) has occurred and has continued for a period, if any, prescribed by the resolution authorizing the issuance of the bonds, the trustee under an indenture entered into with respect to the bonds authorized by the resolution, or, if there is no indenture, a trustee appointed in the manner provided in the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding, shall, in the trustee's own name but for the equal and proportionate benefit of all of the bondholders, and with or without having possession of the bonds:
- (1) by mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders, including the requirements of Section 8503.011;
  - (2) bring suit on the bonds or the appurtenant coupons;
  - (3) by action or suit in equity, require the authority to act as if it were the trustee of an express trust for the bondholders;
  - (4) by action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders; or
  - (5) after such notice to the authority as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been made good, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration



and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized by the resolution and then outstanding shall, by written instrument delivered to the trustee, have the right to direct and control any and all action taken or to be taken by the trustee under this section.

- (c) A resolution, indenture, or agreement relating to bonds may provide that in a suit, action, or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of any of the bonds, is entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the authority, operate and maintain the properties, and set, collect, and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in Section 8503.011(a) and the costs and disbursements of the suit, action, or proceeding and apply the revenues in conformity with this chapter and the resolution authorizing the bonds.
- (d) In a suit, action, or proceeding by a trustee under this section, the reasonable fees, counsel fees, and expenses of the trustee or the receiver, if any, constitute taxable disbursements, and all costs and disbursements allowed by the court shall be a first charge on any revenues pledged to secure the payment of the bonds.
- (e) Subject to the provisions of the constitution, the courts of Travis County have jurisdiction of a suit, action, or proceeding under this section by a trustee on behalf of the bondholders and of all property involved in the suit, action, or proceeding.
- (f) In addition to the powers specifically provided by this section, the trustee has all powers necessary or appropriate for the exercise of the powers specifically provided or incident to the general representation of the bondholders in the enforcement of their rights.

#### **Sec. 8503.015 — Audits**

- (a) The authority is subject to the audit provisions of Subchapter G, Chapter 49, Water Code.
- (b) Expired.

## **Sec. 8503.016 — Authority as Conservation and Reclamation District**

- (a) The authority shall manage and use its facilities, the water impounded by its dams on the Colorado River or its tributaries, and any available net operating revenues to accomplish, to the extent possible, the purposes included in Section 59(a), Article XVI, Texas Constitution, that are enumerated in the provisions of this chapter or other general law, and the authority shall market electric power that, in the opinion of the board, will not be immediately needed by the authority, under contracts and on conditions that will best enable the authority to pay its operating expenses, meet its outstanding financial obligations as they mature, supply the increasing demand for electric power in the area dependent on its systems for electric service on April 28, 1975, and assure, to the extent possible, an adequate supply of water for irrigation and other useful purposes, as it is needed in the various counties comprising the authority.
- (b) When bonds are to be issued to finance in whole or in part water-impounding facilities, before approving the bonds the attorney general shall be furnished a resolution from the commission or its successor agency certifying that the authority possesses the necessary water right authorizing it to impound or otherwise appropriate the waters to be utilized by the project.

## **Sec. 8503.017 — Bonds as Negotiable Instruments**

Bonds issued by the authority under this chapter or other general law are negotiable instruments under the laws of this state.

## **Sec. 8503.018 — Additional Powers Relating to Contracts, Rules, and Regulations**

The authority may, but without intending by this provision to limit any powers of the authority as granted to it by this chapter or other general law, enter into and carry out contracts or establish or comply with rules and regulations concerning labor and materials and other related matters in connection with any project or projects as the authority considers desirable or as requested by the United States, this state, or any corporation or agency created, designated, or established by the United States or this state that may assist in the financing of the project or projects.

## Sec. 8503.019 — Purchase of Bonds

The authority may, out of any funds available for the purpose, purchase bonds issued by it at a price not exceeding the redemption price applicable at the time of the purchase, or if the bonds are not redeemable, at a price not exceeding the principal amount of the bonds plus accrued interest. All bonds purchased in this manner shall be canceled.

## Sec. 8503.020 — Disposition of Property

- (a) Nothing in this chapter shall be construed as authorizing the authority, and the authority is not authorized, to mortgage or otherwise encumber any of its property of any kind, real, personal, or mixed, or any interest in such property, or to acquire any property or interest subject to a mortgage or conditional sale, provided that this section may not be construed as preventing the pledging of the revenues of the authority as authorized by this chapter.
- (b) Nothing in this chapter shall be construed as authorizing the sale of any property or interest by the authority or by any receiver of any of its properties or through any court proceeding or otherwise, unless, by the affirmative vote of three-fourths of its statutory membership, the board has determined that the property or interest is not necessary or convenient or of beneficial use to the business of the authority and has approved the terms of the sale. Except by sale as expressly authorized in this section, authority property or interest may not come into the ownership or control, directly or indirectly, of any person, firm, or corporation other than a public authority created under the laws of this state or a nonprofit corporation created by the authority under Chapter 152, Water Code.
- (c) The limitations on the sale of property of the authority in this section do not and are not intended to preclude the authority from selling any interest owned or held by the authority in any jointly owned electric power and generating facilities constructed, or to be constructed, under Section 8503.004(t), provided that the sale of an ownership interest in a joint project is provided for and in conformance with any contract with other owners regarding the electric power and energy generating facilities.

- (d) All authority property is exempt from forced sale, and nothing in this chapter shall be construed to authorize the sale of any of the property of the authority under a judgment rendered in a suit, and a sale of that kind is prohibited.

### **Sec. 8503.021 — Property Agreements With City of Austin**

Nothing in this chapter prohibits the authority from owning property in conjunction with, acquiring property from, or selling property to the City of Austin, on terms and conditions to which the authority and the city agree. The authority may acquire property from the City of Austin subject to repurchase agreements, or other terms and conditions as are agreed on between the authority and the city, and may enter into any contractual relations with the city respecting property that the parties agree on.

### **Sec. 8503.022 — Property Useful in the Production or Utilization of Electric Energy**

This chapter does not prohibit or restrict the sale, lease, or other disposition, to an electric cooperative, municipality, nonprofit corporation created by the authority under Chapter 152, Water Code, or other governmental agency or body politic and corporate of this state, of any property acquired or constructed by the authority and incidental to or used or useful in the generation, production, transmission, distribution, or sale of electric energy. The authority may pledge the proceeds of a sale under this section to the same extent and in the same manner in which it is authorized to pledge its revenues.

### **Sec. 8503.023 — Public Access**

- (a) The authority may not prevent the public use of its lands for recreational purposes and fishing except at such points where, in the opinion of the board, the use would interfere with the proper conduct of the business of the authority or would interfere with the lawful use of the property. A lease of authority lands, except one expressly permitted by Section 8503.022, is not lawful unless it provides for free public use of the lands for recreational purposes and fishing.
- (b) All public rights-of-way traversing the areas flooded or to be flooded by the impounded waters shall remain open as a way of

free public passage to and from the lakes created, and a charge may not be made to the public for the right to engage in fishing or boating on or swimming in those lakes.

- (c) If any citizen of this state or of the United States advises the attorney general that this section has not been complied with, the attorney general may, after investigation of the complaint and notice to the authority, institute the proper legal proceedings, if any are required, to require the authority or its successor to comply with this section.
- (d) If any of the authority's land bordering the lakes to be created under this chapter is sold by the authority, the authority shall retain in each tract a strip 20 feet wide abutting the high-water line of the lake for the purpose of passage and use by the public for public sports and amusements; provided, however, that this subsection does not apply to any sales of land by the authority to any state or federal agency to be used for game or fish sanctuaries or preserves or for game or fish propagation purposes.

#### **Sec. 8503.024 — Bonds Exempt From Taxation**

All bonds and interest on the bonds issued under the provisions of this chapter are exempt from taxation, except inheritance taxes, by this state or by any municipal corporation, county, or other political subdivision or taxing district of this state.

#### **Sec. 8503.025 — Source of Authority**

- (a) This chapter, without reference to other statutory provisions, constitutes full authority for the authorization and issuance of bonds under this chapter, and no other act or law regarding the authorization or issuance of obligations or the deposit of the proceeds of obligations, or in any way impeding or restricting the carrying out of the acts authorized by this chapter shall be construed as applying a limitation to any proceedings taken under or acts done under this chapter.
- (b) Nothing in this chapter shall prevent the authority from issuing bonds under any applicable general law of this state, provided, however, that no bonds are issued that would be in conflict with Section 8503.024.

### **Sec. 8503.026 — Bonds as Investments and Security for Deposits**

- (a) All authority bonds are legal and authorized investments for individuals, partnerships, profit and nonprofit corporations, banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians and for the sinking funds of municipalities, counties, school districts, or other political corporations or subdivisions of this state.
- (b) The bonds are eligible to secure the deposit of all public funds of this state and any public funds of municipalities, counties, school districts, or other political corporations or subdivisions of this state and are lawful and sufficient security for those deposits to the extent of their par value when accompanied by all unmatured coupons.

### **Sec. 8503.027 — Construction**

- (a) This chapter and all of its terms and provisions shall be liberally construed to carry out the purposes set forth in this chapter.
- (b) Nothing in this chapter affects the meaning of Section 8503.011, formerly Section 222.011, Water Code, and Section 9, Chapter 74, Acts of the 64th Legislature, Regular Session, 1975, as it existed prior to the adoption of the former Chapter 222, Water Code, except where specifically amended.

### **Sec. 8503.028 — Authority Powers in Lampasas County**

Notwithstanding any other provision of this chapter, the authority may exercise all powers within Lampasas County that it may otherwise exercise within the 10 counties specified in Section 8503.003, except that the authority may not provide water or wastewater services in the portion of Lampasas County outside the Colorado River watershed without the consent of the Brazos River Authority.

### **Sec. 8503.029 — Additional Specific Powers**

- (a) Notwithstanding any other provision of this chapter, the authority:
  - (1) may purchase, construct, acquire, own, operate, repair, improve, or extend any facility necessary or convenient to

provide water services in Williamson County in cooperation with another special district, a municipality, or another governmental entity;

- (2) may not provide water services in the watershed of the Brazos River unless the authority obtains in writing the consent of the Brazos River Authority before the services are provided; and
- (3) may transfer surface water from the authority to a place in Williamson County that is outside the watershed of the Colorado River only if the transfer is made to:

- (A) a municipality that was a water customer of the authority on May 20, 1997, and located in the watersheds of both the Colorado River and the Brazos River; or

- (B) a person or entity that pays for the surface water in an amount sufficient to pay both the authority's applicable water rate and an additional charge to pay the costs of mitigating any adverse effects of the transfer of surface water to Williamson County from the Colorado River watershed, and provided the transfer results in no net loss of water to the Colorado River watershed as determined by the board.

- (b) Notwithstanding the amounts of surface water transferred by the authority to municipalities in accordance with Subsection (a)(3)(A), the volume of surface water authorized for transfer by the authority in accordance with Subsection (a)(3)(B) may not exceed 25,000 acre-feet per year, it being the intent of the legislature that the authority not be the sole provider of surface water to Williamson County.

- (c) The authority shall determine the amount of the additional charge under Subsection (a)(3)(B). The additional charge may not be less than 10 percent of the authority's applicable rate for surface water to be transferred. The authority shall deposit any money the authority receives from the additional charge, and may deposit any other money as the board determines, into a separate fund designated as the agricultural water conservation fund. The authority may use money from the agricultural water conservation fund only for the development of water resources or other water use strategies to replace or offset the amount of surface water to be transferred to Williamson County, including

the development and implementation of methods, programs, and strategies relating to groundwater resources, reuse, conservation, and other opportunities to reduce the reliance on surface water for agricultural irrigation, provided that the methods, programs, and strategies take into consideration the surface water and groundwater needs of the affected Colorado River basin users.

- (d) Before its determination of the use of money from the agricultural water conservation fund, the authority shall consult with an advisory committee representing agricultural irrigation interests that is appointed by the county judges of Matagorda, Wharton, and Colorado counties. The board's determination of the additional charge is not subject to review or modification by any regulatory agency or independent reviewing authority. Water resources developed or conserved through the additional charge may be acquired from any source inside or outside the boundaries of the authority and shall be used to benefit the water service areas of the authority's irrigation operations.

#### **Sec. 8503.030 — Provision of Water to Municipality Outside Colorado River Basin**

- (a) This section applies notwithstanding any other provision of this chapter or other law.
- (b) In this section and Section 8503.031:
  - (1) "Municipality" includes a municipally owned utility.
  - (2) "Water service area" means the area in which the authority is authorized to use, distribute, and sell water on January 1, 2001.
- (c) Subject to the limitations and restrictions in this section, the authority may enter into a written contract with a municipality located outside the water service area to distribute and sell water to the municipality.
- (d) In addition to the authority's applicable water rate, the authority shall charge a municipality a surcharge determined by the board according to the terms of the contract to enable the authority to develop and manage water resources sufficient to address the projected needs of the authority's water service area and the needs of the municipality to the extent agreed in the contract. The contract must provide that



the surcharge be sufficient to allow the authority to recover all capital construction costs incurred by the authority under this section. The board's determination of the surcharge is not subject to review or modification by any regulatory agency or administrative authority.

- (e) The use or reservation of water under a contract authorized by this section may extend for a base period of not more than 50 years. A contract may provide an option to renew for not more than an additional 30 years. An option to renew must require that the municipality progressively reduce the amount of water reserved or used by the municipality during the last 10 years of the renewal term and require that the rate paid by the municipality immediately increase by a factor of five if the municipality does not make the required reduction. A contract must provide that the municipality is not entitled to further reservation, use, or delivery of water from the authority at the conclusion of the contract.
- (f) A contract authorized by this section must require that the then current rate paid by the municipality immediately increase by a factor of five if:
  - (1) the municipality initiates legal proceedings in a court or regulatory agency to obtain:
    - (A) an increase in the amount of surface water taken by the municipality under this section; or
    - (B) an extension of either the base or renewal periods under Subsection (e); or
  - (2) the authority is compelled by any authority to reserve, sell, or make available to the municipality more than 150,000 acre-feet of water per year or to reserve, sell, or make available to the municipality water beyond the base and renewal periods under Subsection (e).
- (g) The contract must provide that within the water service area the authority must own any personal property, fixtures, or appurtenances that are used for making available, diverting, or delivering water to a municipality under a contract authorized by this section.
- (h) Water to be provided under a contract authorized by this section may not be diverted from the Colorado River at diversion points located on the reservoirs that, on May 16, 2001, are owned and operated by the authority upstream of Mansfield Dam.

Water to be provided under a contract authorized by this section may be diverted only from off-channel reservoirs built downstream of Mansfield Dam after May 16, 2001.

- (i) The authority may not provide water to a municipality under a contract authorized by this section unless the authority demonstrates, through its water management plan, to the commission that the authority will operate its water supply system in conjunction with the water resources management efforts contemplated by the contract to:
  - (1) increase the average lake levels of Lake Buchanan and Lake Travis by at least 6 feet and 18 feet, respectively, above the average lake levels of those lakes during times when those lakes would have been operating at less than 90 percent of conservation capacity without those efforts; and
  - (2) increase the average lake levels of Lake Buchanan and Lake Travis during a repeat of the drought of record at least 10 feet and 20 feet, respectively, above the average lake levels of those lakes during a repeat of the drought of record without those efforts.
- (j) As a requirement of the authority's water management plan, the authority shall submit annually to the commission data and a report demonstrating that the authority has operated its water supply system in accordance with the provisions of this section. The data shall include a tabulation that compares actual recorded lake levels with lake levels that would have occurred without the water resources management efforts contemplated by a contract authorized by this section. The commission shall review the data and report submitted by the authority and shall certify, in writing made available to the public, whether the authority has complied with the provisions of this section.
- (k) The authority may sell no more than a total of 150,000 acre-feet of water in any year under contracts authorized by this section.
- (l) This section does not authorize:
  - (1) the authority to pump water to the municipality directly from the Colorado River;
  - (2) the authority to sell its surface water rights to any person or entity for use outside the water service area; or

- (3) a sale or lease of water other than as specifically authorized by this section.
- (m) The authority may not sell groundwater to a municipality under this section.
- (n) The authority may not contract to distribute or sell water under this section unless the board finds, after providing an opportunity for public input, that the contract:
  - (1) will protect and benefit the lower Colorado River watershed and the authority's water service area, including municipal, industrial, agricultural, recreational, and environmental interests;
  - (2) is consistent with regional water plans filed with the Texas Water Development Board on or before January 5, 2001;
  - (3) will ensure that the beneficial inflows remaining after any water diversions will be adequate to maintain the ecological health and productivity of the Matagorda Bay system;
  - (4) will provide for instream flows no less protective than those included in the authority's Water Management Plan for the Lower Colorado River Basin, as approved by the commission;
  - (5) will ensure that, before any water is delivered under the contract, the municipality has prepared a drought contingency plan and has developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the municipality;
  - (6) provides for a broad public and scientific review process designed to ensure that all information that can be practicably developed is considered in establishing beneficial inflow and instream flow provisions; and
  - (7) will benefit stored water levels in the authority's existing reservoirs.
- (o) Municipality that buys water from the authority under a contract authorized by this section may not resell that water outside the boundaries of the regional water planning area in which the municipality is located, as those boundaries are designated by the Texas Water Development Board as of January 5, 2001.

- (p) Nothing in this section shall exempt the authority or any municipality from the permitting requirements of state and federal law.

### **Sec. 8503.031 — Authority of Municipality to Contract for Water**

Section 8503.030 constitutes full authority for a municipality or municipally owned utility to enter into a contract with the authority under that section. The payments made under a contract authorized by that section are operation and maintenance expenses of the municipality's utility system. A municipality or municipally owned utility that enters into a contract under that section may use proceeds from the sale of its revenue bonds to make any such payments.

### **Sec. 8503.032 — Broadband Service Infrastructure and Connectivity**

- (a) In this section, "broadband service" means advanced telecommunications capability and Internet access.
- (b) The authority may provide fiber capacity or facilities for the purpose of facilitating broadband service connectivity.
- (c) The authority may not provide broadband service to a retail customer.
- (d) Notwithstanding any other law, Subtitle C, Title 2, Utilities Code, does not apply to the authority.
- (e) The authority may provide fiber capacity or facilities only on reasonable and nondiscriminatory terms and conditions.
- (f) The authority may not agree to lease fiber capacity or facilities to a municipality for the purpose of facilitating broadband service connectivity, other than for communications regarding utility operations, unless the authority:
  - (1) posts on the authority's Internet website information concerning the proposal to lease the capacity or facilities to the municipality not less than 90 days before entering into the lease agreement with the municipality; and
  - (2) for the 90-day period beginning on the date that the authority posts information under Subdivision (1), makes the capacity or facilities available for lease to any commercial broadband provider that provides broadband services in the municipality, on the authority's standard terms and conditions.

## Appendix I

### SUMMARY OF AMENDMENTS TO THE LOWER COLORADO RIVER AUTHORITY ENABLING LEGISLATION

The LCRA enabling legislation has been amended many times since 1934. These amendments are summarized below.

#### 1935

- Added provision that directors may receive fees (\$10 per day) for each day spent attending to business of LCRA, plus reimbursement for actual expenses incurred when authorized by resolution of the Board. No director shall be paid per diem in excess of 150 days in any one calendar year.
- Increased the allowable aggregate principal amount of bonds outstanding from \$10 million to \$20 million.
- Appropriated \$10,000 for use by LCRA out of the Texas State Treasury.

#### 1937

- Added provision that nothing in the LCRA enabling legislation shall prohibit LCRA from acquiring property from or selling property to the City of Austin, under terms mutually agreed upon by these parties.

#### 1939

- Increased the limit on the aggregate principal amount of bonds outstanding from \$20 million to \$25 million, with a provision requiring that this amount be reduced by the principal amount of bonds retired or paid at maturity.
- Eliminated the provision restricting the purchase of property from Central Texas Hydro Electric Company by LCRA without approval from the federal government.
- Added provision that nothing in the LCRA enabling legislation shall prohibit or restrict the sale, lease or other disposition of LCRA property (useful to the business of LCRA) to any electric cooperative,

municipality, or other governmental agency. Authorized LCRA to pledge proceeds of such sales in the same manner as it is authorized to pledge revenues.

## 1941

- Added a section providing that:
  1. Every director must be a resident of and freehold property taxpayer of the county from which appointed for at least two years prior to appointment.
  2. No more than one director shall be resident of the same county. All directors must be appointed by the governor of Texas with the advice and consent of the Senate (repealing the previous requirement of three appointments by the governor, three by the attorney general, and three by the commissioner of the General Land Office).
  3. Of the nine directors, at least six shall be residents of the 10-county statutory district.
  4. Present directors may continue in office until their terms expire and shall be eligible for reappointment.

## 1949

- Increased the limit on the aggregate principal amount of bonds outstanding from \$25 million to \$50 million.
- Changed the requirement that bonds sold for cash be computed to maturity at an interest cost of no more than 6% to no more than 5%.
- Eliminated the provision authorizing the Board to issue bonds in exchange for any kind of property or interest therein that the Board deems necessary or convenient for the corporate purpose of LCRA.
- Required the proceeds of bond sales and any net operating revenues from the sale of electric power or water, after certain deductions, to be used to construct dams and levees for flood control and hydroelectric power generation, and to purchase items necessary to meet the electric demands of the area served by transmission lines and distribution systems at that time. In addition,

proceeds could be used to aid in soil conservation/reclamation with the approval of the projects by the Extension Department of the Agricultural and Mechanical College of Texas (wording amended in 1965 to "Texas A&M University"). Certain other proceeds were to be placed in an irrigation/conservation fund.

- Changed the requirement for five Board members to approve a bond resolution to six members, and the limit on the interest rate from 5%-6%.
- Eliminated the federal government as a party to the execution and delivery of indentures and agreements for the benefit of the holders. Added a stipulation to bond resolutions prohibiting agreements, contracts or commitments that would result in the federal government claiming a right to control or manage the Colorado River or tributaries.
- Provided for an annual audit by the state auditor, designating which agencies shall receive copies.
- Established, as policy of the state, that LCRA manage and use its facilities (the impounded water and net operating revenues) to accomplish the purposes listed in the LCRA enabling legislation, and LCRA shall market electric power under conditions that will best enable LCRA to pay its operating expenses, meet outstanding financial obligations, meet demands for electric power, and ensure an adequate supply of water.
- Provided that in the event a part of the enabling legislation is judicially declared invalid or unconstitutional, the remainder of the enabling legislation remains in force.

## 1951

- Added three members to the LCRA Board to be appointed by the governor with the advice and consent of the Senate, and designated expiration dates for their terms.
- Provided that not more than two directors shall reside in the same county, and no one county shall have two directors for a period greater than six consecutive years. Seven directors constitute a quorum, except as otherwise provided in the LCRA enabling legislation. Any conflicting part of the enabling legislation is repealed, with regards to this provision.

- Provided that all action may be taken by the affirmative vote of a majority of the directors present, with the following exceptions regarding approval: contracts involving more than \$10,000 or extending for more than one year, bonds, notes or other evidence of indebtedness. Also, the amendment of the bylaws requires an affirmative vote of at least seven members.
- Stated that the LCRA Board of Directors is a “State Board” as referred to in Section 30a of Article 16 of the Texas Constitution, which provides: 1) six-year terms and 2) one-third of the members are to be appointed or elected every two years.

## 1955

- Increased the limit for the aggregate principal amount of outstanding bond issues from \$50 million to \$65 million.

## 1959

- Increased the limit for the aggregate principal amount of outstanding bond issues from \$65 million to \$120 million.

## 1962

- Added that LCRA may sell bonds to the United States of America or to any agency or corporation created or designated by the United States of America in exchange for cash in the amount equal to the principal amount of the bonds sold, provided, however, that the interest cost of the money received (which shall be computed to maturity in accordance with standard bond tables in general use by banks and insurance companies) is no more than 5% per year.
- Provided for an additional use of bond proceeds: to acquire, install or construct, and to operate one steam generating plant, with a capacity of no more than 250,000 kilowatts, located within the district boundaries.

## 1965

- Authorized LCRA to expand its steam generation plant, increasing its capacity from 250,000 kilowatts to 565,000 kilowatts.



## 1967

- Added a section to the LCRA enabling legislation that increased the limit for the aggregate principal amount of bond issues from \$120 million to \$200 million. This section was repealed in 1971.
- Authorized LCRA to operate more than one steam plant within the counties of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano and San Saba with a total capacity of no more than 1.13 million kilowatts (an increase of 565,000 kW).

## 1971

- Repealed the 1941 amendment, instituting the following changes relating to the appointment of Board members:
  1. The Board shall have one director appointed from each county, with the exception of Travis County, which will have two members.
  2. No person is eligible for appointment if he has, during the preceding three years, been employed by an electric power and light company, telephone company, or other utility company of any kind.
  3. Board members shall serve until the expiration date, and thereafter until the governor appoints a new member, unless sooner removed, as provided in the LCRA enabling legislation.
  4. A member may be removed by the governor for inefficiency, neglect or misconduct in office, after at least 10 days written notice of the charges against him and an opportunity to be heard in person or by counsel at a public hearing. Vacancies as a result of death shall be filled by a person appointed by the governor for the unexpired term.
- Increased the fee that Board members may receive for attending to LCRA business from \$10 to \$25 per day.
- Added the following authorizations:
  1. To study, correct and control pollution in the groundwaters and surface waters of the Colorado River and its tributaries. LCRA was given the power to promulgate rules and regulations, and enforce these measures.

2. To construct, own, operate and maintain sewage treatment and solid waste facilities, to charge for such services and to enter into contracts.
  3. To develop and manage parks, recreational facilities, natural science laboratories and fish preservation.
- Eliminated the 5% maximum annual interest cost for bond issuance, leaving the cost to be determined by the Board of Directors.
  - Increased the generating capacity of LCRA steam generating plants from 1.13 million kilowatts to 1.5 million kW.
  - Clarified the provision relating to excess funds from bond issues, which requires the Board of Directors to determine if funds are needed to carry out projects.
  - Required a resolution from the Texas Water Rights Commission before the attorney general may approve water financing bonds, which certifies that LCRA possesses the necessary water rights authorizing it to impound or appropriate the water to be used in the proposed project.
  - Increased the limit on the aggregate principal amount of bonds outstanding from \$200 million to \$300 million.

## 1973

- Authorized the Board of Directors to impose reasonable fees/charges for the development and maintenance of parks and recreational facilities developed in whole or in part by LCRA.
- Authorized LCRA to control and charge for the commercial use of the surface of any lakes or islands developed by the authority.
- Increased per diem payments for directors from \$25 to \$50 per day.

## 1975

- Clarified LCRA's authority in several areas, specifically limiting it to the boundaries of the 10-county district.
- Authorized LCRA to develop parks on LCRA-owned lands.
- Omitted language so that general laws relating to conservation and reclamation districts will apply to LCRA.

- Authorized LCRA to develop all types of electric power, not just hydroelectric power.
- Empowered LCRA to control, preserve, use and sell its land for any useful purpose.
- Removed the prohibition upon LCRA to acquire property by condemnation.
- Authorized LCRA to require the relocation of pipelines, transmission lines, railroads and cemeteries to the extent conservation and reclamation districts are permitted by general law.
- Continued the right to adopt and use a corporate seal, but deleted the right to alter the corporate seal.
- Authorized LCRA to borrow money on notes for a period not to exceed five years, when authorized by 12 directors, and required such loans to be repaid by the next bond offering.
- Eliminated the requirement that bond issuance must be authorized by the Texas Legislature.
- Authorized LCRA to accept grants from the state of Texas or from any corporation or agency designated by the state.
- Required LCRA to charge an amount equal to actual costs for sewage services rendered. Authorized LCRA to contract with the state and federal governments in reference to sewage disposal services.
- Authorized LCRA to promote the preservation of wildlife, in accordance with regulations by the Texas Parks and Wildlife Commission.
- Added a provision allowing LCRA to enter into agreements as may be legally authorized (by Chapter 166, Acts of the 63rd Legislature, regular session, 1973) to acquire, install, construct, operate, enlarge and make additions to, and own and operate electric power and energy-generating facilities, in joint ownership with others, either as cotenant or other arrangement agreed upon by a three-fourths vote of the statutory membership of the LCRA Board. LCRA may sell or dispose of its interest in any jointly owned electric power and generating facilities. This amendment does not apply to generating facilities or other property wholly owned or operated by LCRA.
- Authorized LCRA to enter into contracts with the state of Texas through the State Board of Control providing for the sale by LCRA

of electrical power to the state for use in buildings or other facilities, owned, leased or rented by the state in Travis County. Eliminated the provision that nothing shall prevent LCRA from selling, for irrigation purposes within the boundaries of the district, any water impounded by LCRA under authority of law.

- Clarified the provision that LCRA has the authority to control the use of surface water and islands in its lakes for purposes other than commercial purposes.
- Clarified provision that LCRA is subject only to outstanding water rights that are legal.
- Subordinated LCRA hydroelectric use of water to certain beneficial uses by cities, towns and other political bodies.
- Increased the number of members on the LCRA Board of Directors from 12 to 15, adding three members to be appointed (by the governor with the consent of the Senate) from the district at large from counties served with electric power, other than the 10 mentioned in the statutory district. Their powers are limited to matters of electric generation, distribution and rates or related matters. No county other than Travis shall have two directors for a period of greater than six consecutive years. Increased the number of directors from seven to eight needed to form a quorum, amend bylaws and authorize contracts for more than \$10,000 or one year.
- Increased, from 10 to 30, the number of days notice that must be provided to an LCRA director before removal by the governor.
- Increased, from five to eight, the number of directors needed to authorize a person to sign LCRA checks and disburse funds.
- Required an audit after each fiscal year, instead of each calendar year.
- Added provision that rates/charges may include costs covering the payment of the principal and interest on any legal debt created by LCRA.
- Provided that the state, in regulating the fees collected by LCRA, will not limit the power of LCRA to collect such fees in any way that will impair the rights of creditors of LCRA who hold written evidence of indebtedness.
- Eliminated the limit (\$300 million) on the aggregate amount of LCRA bonds that may be outstanding at any one time.

- Eliminated the requirement that the Texas attorney general advise and approve which bid for LCRA bonds is the highest and best, leaving this responsibility to the Board.
- Authorized the Board to determine by what method the interest costs of bonds will be computed (by eliminating the requirement of using standard bond tables used by banks).
- Required property acquired by LCRA in exchange for LCRA bonds to be found by an independent appraisal to be at least equal in value to the par value of such bonds, and that the appraisal be kept as a public record filed with the state auditor.
- Authorized the sale of bonds to the state and state agencies or corporations created or designated by the state.
- Authorized LCRA to invest proceeds of bond sales as previously stated, adding that LCRA can provide electricity "... within the district directly served by its transmission and distribution systems on Jan. 1, 1975, and such other areas within the service area served by the authority on Jan. 1, 1975, which cannot receive comparable service from any other power source ..."
- Eliminated the requirement that LCRA soil conservation and reclamation projects be approved by Texas A&M University.
- Increased the limit on generating capacity from 1.5 million kilowatts to 5,000 megawatts.
- Limited the area to which LCRA can provide electricity to the area served as of Jan. 1, 1975, rather than Jan. 1, 1962.
- Clarified the provision that LCRA may expend money to build dams on the Colorado River between Austin and the mouth of the Colorado River.
- Authorized LCRA to acquire (not just install) facilities necessary to supply water for irrigation and other useful purposes within the district.
- Omitted the requirement that water impounded or stored by dams on the Colorado River and its tributaries be used during emergencies resulting from subnormal rainfall.
- Increased from six to 12 the number of directors who must concur in the issuance of bonds by LCRA.
- Added interest to the items that a bond resolution may stipulate to be set aside.

- Omitted language prohibiting LCRA from issuing bonds in lieu of those it has redeemed and canceled.
- Omitted language:
  1. Prohibiting LCRA from disposing of its property by lease or form other than a sale.
  2. Requiring a \$50,000-per-year limit upon the amount of property that LCRA can sell.
  3. Requiring that all sales of property be for cash.
- Changed the votes required to sell LCRA property from six to three-fourths of the statutory membership of the Board. Added that the Board must find that the land is not “beneficial” (in addition to convenient) to the business of LCRA.
- Exempted all property from forced sale.
- Authorized LCRA to own property in conjunction with the City of Austin.
- Added a provision that nothing in the enabling legislation shall prohibit or restrict the sale, lease or other disposition to any electric cooperative, municipality or other governmental agency or body politic and corporate of the state of Texas of any property acquired or constructed by LCRA that is useful to the electric power activities of LCRA. Authorized LCRA to pledge the proceeds of any such sales in the same manner it is authorized to pledge its revenue.
- Omitted language:
  1. Prohibiting LCRA from charging fees for the public use of its land for recreational purposes, hunting and fishing.
  2. Ensuring the use of LCRA lands for hunting.
  3. Prohibiting LCRA from charging for the right to hunt on certain LCRA land.
- Authorized LCRA to prevent the use of its land where such use would interfere with the lawful use of the property.
- Authorized the attorney general to institute legal proceedings to require LCRA to comply with this section.

- Added a section making clear that LCRA bonds are legal and authorized investments, eligible to secure the deposit of any public fund.
- Added that nothing within the enabling legislation shall be interpreted to affect pending litigation involving LCRA.
- Added a provision that the rights, powers, privileges, authority and functions granted are subject to chapters 5, 6 and 21 of the Texas Water Code.

## 1983

- Specified that directors shall serve staggered six-year terms with five members' terms expiring on Feb. 1 of each odd-numbered year.
- Omitted provision that nothing in the LCRA enabling legislation shall prevent the present membership from continuing to serve until the expiration of their respective terms.

**NOTE:** Section 2, Senate Bill No. 194, 68th Legislature provides:

1. A person appointed to the Board of Directors of the Lower Colorado River Authority who held office immediately preceding the effective date of this enabling legislation and who was eligible to be a member of the Board under the law as it existed at the time of his or her appointment is entitled to serve the remainder of the term for which he or she was appointed.
2. The term of office succeeding a Board member's term that expires on Jan. 1, 1985, expires on Feb. 1, 1991. The term of office succeeding a Board member's term that expires on Jan. 1, 1987, expires on Feb. 1, 1993. The term of office succeeding a Board member's term that expires on Jan. 1, 1989, expires on Feb. 1, 1995.

## 1989

- Removed the provision that restricted the three "at-large" Board members to voting on electric-related matters only. This amendment eliminated the need for all 12 Board members from the statutory district to vote affirmatively in approving water-related bonds. Ratified previous Board actions and corrected the schedule for appointing Board members.

- Removed the provision requiring the LCRA Board to approve all contracts for more than \$10,000 or for longer than one year.

**NOTE:** Section 3, House Bill No. 1991, 71st Legislature provides:

1. For terms beginning immediately after the terms expiring Feb. 1, 1993, the governor shall appoint one person to serve a two-year term, one person to serve a four-year term, and five persons to serve six-year terms.
2. Directors appointed for terms beginning Feb. 1, 1995, and all subsequent directors serve staggered six-year terms.
3. The appointment of each person holding the position of director immediately preceding the effective date of this enabling legislation is ratified and confirmed.

### 1993

- Expanded the area in which LCRA may use, distribute and sell water to include, in addition to the statutory district, the watershed that contributes inflows to the Colorado River below the intersection of Coleman, Brown and McCulloch counties.

### 1995

- Added a new section allowing LCRA to provide Lampasas County with the services available to counties in the statutory district. LCRA may not provide water or wastewater services in the Brazos River watershed portion of Lampasas County without the consent of the Brazos River Authority.

### 1997

- Added a new section allowing LCRA to provide water services in the Brazos River watershed portion of Williamson County with the prior written consent of the Brazos River Authority; LCRA may not transfer its surface water to any place in Williamson County that is outside the Colorado River watershed except for the cities of Leander and Cedar Park.



## 1999

- Amended Section 27 of LCRA's enabling legislation at the time, to allow LCRA, with the consent of the Brazos River Authority, to sell water to persons or entities other than the cities of Leander and Cedar Park at places throughout Williamson County, including those places outside the Colorado River basin. LCRA will collect a fee from such sales, which are limited to a total amount of 25,000 acre-feet a year, to pay for developing water resources that offset water transferred out of the Colorado River basin and benefit areas served by LCRA's irrigation operations. Such sales are conditioned on there being no net loss of water to the Colorado River watershed.

## 2001

- Added Section 28 of LCRA's enabling legislation at the time, allowing LCRA to enter into a long-term contract to sell water to a municipality located outside of its water service area, pursuant to certain limitations and restrictions and provided that such a sale is consistent with regional water plans. Requires LCRA to charge the municipality a surcharge determined by the Board to enable the district to develop and manage water resources sufficient to address the projected needs of the district's water service area and the needs of the municipality.

## 2003

- Codified the enabling legislation of LCRA in Title 6, Chapter 222 of the Texas Water Code, and updated some other general provisions, effective Sept. 1.
- Provided that the Board chair shall be appointed by and serve at the pleasure of the governor.

## 2007

- Codified the enabling legislation of LCRA in Chapter 8503, Special District Local Laws Code, effective Sept. 1.

## 2015

- Added a new section that subjects LCRA to a review by the Sunset Advisory Commission, but not abolishment, to be conducted

under Section 325.025, Government Code, as if LCRA were a state agency scheduled to be abolished Sept. 1, 2019, and every 12 years thereafter.

- Authorized the state auditor to perform an audit of LCRA before Dec. 1, 2016, and make recommendations to the Legislature.

## 2019

- Updated the LCRA sunset review schedule so that LCRA is subject to review, but not abolishment, again in 2031.

Added the following new sections in response to recommendations of the Sunset Advisory Commission:

- Prohibited a person who is appointed to and qualifies for office as an LCRA director from voting, deliberating, or being counted as a director in attendance at a Board meeting until the person completes required training. Set out provisions relating to the training program and a related training manual.
- Required the LCRA Board of Directors to develop and implement a policy that provides a structure for public engagement in regard to water supply projects.
- Required LCRA to maintain a system to promptly and efficiently act on complaints filed with LCRA.
- Required the LCRA Board to develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under LCRA jurisdiction.
- Required the LCRA Board to develop a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of disputes under LCRA's jurisdiction.

## 2021

- Added Sec. 8503.032 allowing LCRA to provide fiber capacity or facilities for the purpose of facilitating broadband service connectivity, pursuant to certain limitations and restrictions.

## Appendix II

### POWERS GRANTED TO LCRA BY LAWS OTHER THAN THE ENABLING LEGISLATION

Under Texas law, LCRA is a governmental agency with limited powers – unlike a private business or home-rule city, which can essentially do anything not forbidden by law. LCRA can exercise only those powers expressly granted by constitution and statute, along with those powers necessarily implied from the express grants of authority.

Although the LCRA enabling legislation (Chapter 8503, Special District Local Laws Code, known as the LCRA Act) is the source of most LCRA powers, many other laws grant authority to LCRA in a wide range of areas. Except as expressly limited by the LCRA Act, the authority has all the powers, rights, privileges and functions conferred by general law on any district or districts created under Section 59, Article XVI, of the Texas Constitution. The following list summarizes most of the significant LCRA powers not contained in Chapter 8503.

#### Utilities Code

- Since it was amended in 1999, Title 2 of the Utilities Code, the Public Utility Regulatory Act (PURA), requires the unbundling of generation, transmission and distribution, and retail electric service within the Electric Reliability Council of Texas (ERCOT) region. To comply with these unbundling requirements, LCRA separated its wholesale generation operations from its transmission operations by creating separate business entities and transferring its certificate of convenience and necessity (CCN) to own and operate transmission facilities from LCRA to LCRA Transmission Services Corporation (LCRA TSC). LCRA TSC's transmission, transformation, and metering rates and services are regulated by the Public Utility Commission of Texas (PUC). Under the Texas Water Code, LCRA TSC may share officers, directors and employees with LCRA and other separate business entities of LCRA. LCRA and its separate business entities, including LCRA TSC, may also provide goods and services to each other at cost and without competitive bidding. With respect to LCRA's generation business, PURA Chapter 32 exempts LCRA's wholesale generation rates from PUC jurisdiction, but limits LCRA to selling wholesale electricity only within its service territory as of Jan. 1, 1975. However, a separate LCRA business entity

created under Chapter 152, Texas Water Code, is permitted to sell wholesale electricity and provide services anywhere else in the state. Since Jan. 1, 2002, the effective date of PURA's unbundling requirements, all of LCRA's wholesale customers can elect to open their service territories to retail competition, and can themselves compete for retail customers elsewhere in the state.

## Government Code

- Title 9, Chapter 1371, of the Government Code provides LCRA authority to issue short-term obligations, such as commercial paper for fuel acquisition and any other LCRA purpose. This law also allows LCRA to finance both the acquisition of fuel (for the generation of power and energy) and the facilities for transporting fuel.

## Water Code

- Chapters 7 and 26 of the Water Code grant LCRA a wide array of water quality management authority in addition to that granted by Chapter 8503, Special District Local Laws code. These chapters allow LCRA staff to conduct water quality inspections on private property within the district; file suit in state court to enforce water pollution laws and permit requirements; and to enter into cooperative agreements with the state environmental agency, the Texas Commission on Environmental Quality (TCEQ), through which TCEQ may delegate various water quality management and enforcement powers to LCRA. Chapter 26 also includes the Clean Rivers Act of 1991, which authorizes LCRA to conduct comprehensive regional water quality assessments of the entire Colorado River watershed; manage solid waste; and facilitate household and agricultural waste collection and disposal programs.
- Chapter 11 of the Water Code authorizes LCRA to adopt reasonable rules relating to the supply and use of water and the administrative process for obtaining a water contract.
- Chapter 30 of the Water Code allows LCRA to acquire, construct, finance and operate waste management facilities (e.g., sewage treatment plants) outside the 10-county statutory district. If LCRA is to provide these services to persons or governmental bodies located inside the boundaries of another river authority, it may do so only with the consent of the other river authority.

- Chapter 49 of the Water Code gives LCRA authority to provide environmental laboratory services to any person within or outside of the LCRA statutory district. This chapter also authorizes LCRA to employ peace officers such as the LCRA Rangers. It also modifies public bidding requirements for sales of surplus property.
- Chapter 51 of the Water Code authorizes LCRA to adopt reasonable rules to regulate residence, hunting, fishing, boating, camping, and all recreational and business privileges on any water, land or easement owned or controlled by LCRA.
- Chapter 152 of the Water Code grants LCRA broad authority to sponsor, debt finance, and participate in a wide range of energy and water conservation programs. LCRA may provide grants or loans of money, services, or equipment to others, including individuals and any public or private entities, as part of these programs. Chapter 152 also allows LCRA to create nonprofit corporations to act on behalf of LCRA in any area except solid waste management and exempt wholesale generator activities. However, it specifically includes the authority to acquire, develop, operate and sell fuel, fuel reserves and mineral interests. The statute also allows LCRA to engage in hedging transactions related to oil, gas and electric energy in order to protect against losses due to price fluctuations. Senate Bill 219, the community assistance bill passed during the 1995 legislative session, amended this article and allows LCRA to provide grants, loans, donations of property, and in-kind services to entities engaged in economic development and community assistance activities in the LCRA statutory district and electric and water service areas. In 2001, the Legislature granted specific authority for LCRA to guarantee the obligations of its nonprofit corporations.

## Health and Safety Code

- Chapter 366 of the Health and Safety Code grants TCEQ authority to designate LCRA as its agent to license and regulate septic tanks and other on-site sewage facilities.

## Natural Resources Code

- Section 51.121 of the Natural Resources Code was amended in 1993 to allow LCRA to participate in wind, solar and other renewable-energy projects located on public lands administered

by the General Land Office. This provision also allows LCRA to distribute and sell electric energy from these projects to customers outside its traditional electric service area.

- Chapter 71 of the Natural Resources Code grants LCRA authority to lease its lands for mineral development, including oil, gas, coal and lignite.

## **Parks and Wildlife Code**

- Section 31.092 of the Parks and Wildlife Code allows LCRA to regulate surface use of the Highland Lakes by designating certain areas for swimming, fishing or other restricted uses (e.g., buoy orders indicating no-wake zones). This section also allows LCRA to make rules relating to the operation and equipment of boats that the Board of Directors deems necessary for public safety on the lakes; any such rules must be consistent with state boating regulations.
- Section 62.081 of the Parks and Wildlife Code prohibits hunting, shooting and possessions of weapons on LCRA land. Section 62.082 provides exceptions for target ranges, managed hunts, employees and persons otherwise authorized by law to possess a handgun.

## **Appendix III**

### **WATER CODE**

#### **TITLE 5. SPECIAL LAW DISTRICTS**

### **Chapter 152. River Authorities Engaged in Distribution and Sale of Electric Energy**

#### **SUBCHAPTER A. GENERAL PROVISIONS**

##### **Sec. 152.001 — Applicability**

- (a) This chapter applies only to a river authority that, directly or through a corporation created under Section 152.051, is engaged in the distribution and sale of electric energy to the public.
- (b) This chapter does not apply to any litigation instituted before May 28, 1981, that questions the legality of an act taken or a proceeding conducted by a river authority before that date.

##### **Sec. 152.002 — Application of Other Law**

- (a) Unless this chapter expressly provides otherwise, a law that limits, restricts, or imposes an additional requirement on a matter authorized by this chapter does not apply to an action or proceeding under this chapter.
- (b) Chapters 1202 and 1204, Government Code, apply to revenue bonds, notes, or other obligations issued under this chapter.

#### **SUBCHAPTER B. NONPROFIT CORPORATION ACTING ON BEHALF OF RIVER AUTHORITY**

##### **Sec. 152.051 — Creation of Nonprofit Corporation**

- (a) The board of directors of a river authority by order may create one or more nonprofit corporations to act on behalf of the river authority as its authority and instrumentality.
- (b) The Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) applies to a corporation created under this section.
- (c) Sections 501.052, 501.053, 501.056, 501.057(b) and (c), 501.058, 501.062, 501.063, 501.064, except as that section

applies to amending a corporation's bylaws, 501.065, 501.066, 501.068-501.072, 501.401-501.406, and Subchapters G and H, Chapter 501, Local Government Code, apply to a corporation created under this section, except that in those sections:

- (1) a reference to the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) includes this chapter; and
- (2) a reference to a unit includes a river authority to which this chapter applies.

### **Sec. 152.052 — Powers of Nonprofit Corporation**

- (a) A corporation created under Section 152.051 may exercise any power of the creating river authority except a power relating to solid waste management activities or activities as an exempt wholesale generator, but including the authority to acquire, develop, operate, and sell fuel, fuel reserves, and mineral interests. In this subsection, "exempt wholesale generator" has the meaning assigned by Section 32(a), Public Utility Holding Company Act of 1935 (15 U.S.C. Section 79z-5a(a)).
- (b) When exercising a power under this chapter, a corporation created under Section 152.051 and the board of directors of the corporation have the same powers as the creating river authority and the authority's board, including the power to issue bonds or other obligations or otherwise borrow money on behalf of the river authority to accomplish any purpose of the corporation.
- (c) With regard to the issuance of an obligation, the board of directors of a corporation created under Section 152.051 may exercise the powers granted to the governing body of:
  - (1) an issuer under Chapters 1201 and 1371, Government Code; and
  - (2) a public agency under Chapter 1204, Government Code.
- (d) A corporation created under Section 152.051 and the creating river authority may:
  - (1) share officers, directors, employees, equipment, and facilities; and



- (2) provide goods or services to each other at cost without the requirement of competitive bidding.

#### **Sec. 152.053 — Board of Directors**

- (a) The board of directors of the river authority shall appoint the directors of a corporation created under Section 152.051.
- (b) A member of the river authority's board of directors may serve as a member of the corporation's board of directors.
- (c) The directors of the corporation serve at the will of the river authority's board of directors.

#### **Sec. 152.054 — Supervision by Board of Directors of River Authority**

- (a) The budget of a corporation created under Section 152.051 must be approved by the board of directors of the river authority.
- (b) The activities of the corporation are subject to the continuing review and supervision of the river authority's board of directors.
- (c) The issuance of bonds or other obligations under this chapter by a corporation created under Section 152.051 must be approved by the board of directors of the river authority.

#### **Sec. 152.055 — Liability of Corporate Property for Taxes and Special Assessments**

The property of a corporation created under Section 152.051 is not exempt from taxes or special assessments imposed by this state or a municipality or other political subdivision of this state.

#### **Sec. 152.056 — Transfer of River Authority Assets to Corporation**

Notwithstanding any other law, the board of directors of a river authority may sell, lease, loan, or otherwise transfer some, all, or substantially all of the electric generation property of the river authority to a corporation created under Section 152.051. The property transfer must be made under terms approved by the board of directors of the river authority.

## Sec. 152.057 — Application of Other Law to River Authority

Reference in any other law to a river authority that is engaged in the distribution and sale of electric energy to the public includes a river authority that has created a corporation under Section 152.051 that is engaged in the distribution and sale of electric energy to the public.

## Sec. 152.058 — Guarantee and Other Credit Support Relating to Public Securities and Other Obligations

- (a) In this section, “public security” has the meaning assigned by Section 1202.001, Government Code.
- (b) Under Section 52-a, Article III, Texas Constitution, a river authority that has created a corporation under Section 152.051 may guarantee or otherwise provide credit support for any public security or other obligation or contract of that corporation if the board of directors of the river authority determines that the guarantee or other credit agreement:
  - (1) is beneficial to a public purpose of the river authority; and
  - (2) is for the public purpose of:
    - (A) the development and diversification of the economy of the state;
    - (B) the elimination of unemployment or underemployment in the state; or
    - (C) the development or expansion of commerce in the state.
- (c) A determination by the board of directors of a river authority under Subsection (b) is conclusive.
- (d) A guarantee or other credit agreement authorized by Subsection (b) may provide for the guarantee of or other credit support for public securities or other obligations or contracts of the corporation, all or a portion of which may be authorized, executed, and delivered in the future.
- (e) Chapter 1202, Government Code, applies to a guarantee or other credit agreement under this section as if the guarantee or other credit agreement were a public security.

*[Sections 152.059 to 152.100 reserved for expansion]*

## SUBCHAPTER C. ENERGY OR WATER CONSERVATION PROGRAMS

### Sec. 152.101 — Authority to Participate in Energy or Water Conservation Program

- (a) A river authority may undertake, sponsor, initiate, coordinate, or otherwise participate in a program intended to conserve electric energy or water, including a program that:
  - (1) encourages the more efficient use of electric energy or water;
  - (2) reduces the total use of electric energy or water; or
  - (3) reduces maximum total electric generating capacity requirements through load management techniques.
- (b) A determination by the board of directors of a river authority that a program described by Subsection (a) is intended and expected to accomplish a purpose described by that subsection is conclusive with respect to whether the program serves the stated purpose.

### Sec. 152.102 — Participation in Conservation Program by Person Other Than River Authority

- (a) A conservation program may involve a grant or loan of money, services, or equipment to a person or entity other than the river authority engaged in the program.
- (b) Any person, including an individual or any public or private entity, may enter into an agreement with a river authority with respect to a conservation program.
- (c) A person participating in or receiving a benefit from a conservation program shall comply with the requirements of the program.

### Sec. 152.103 — Public Purpose and Governmental Function

Each conservation program is a public purpose and governmental function of a river authority to conserve the natural resources of this state, including the air and the waters of the rivers and streams of this state, electricity, and fuels used in the generation of electricity, in accordance with Section 59(a), Article XVI, Texas Constitution.

*[Sections 152.104 to 152.150 reserved for expansion]*

## SUBCHAPTER D. ECONOMIC DEVELOPMENT PROGRAMS

### Sec. 152.151 — Definition

In this subchapter, “economic development program”:

- (1) includes a program designed to:
  - (A) encourage economic diversification;
  - (B) contribute to the health and development of a community to improve the attractiveness of the community to public and private enterprises; or
  - (C) improve the quality or quantity of services essential for the development of viable communities and economic growth, including services related to education, transportation, public safety, recreation, health care, training, community planning, or employment; and
- (2) does not include the promotion of retail wheeling of electric power and energy.

### Sec. 152.152 — Applicability

This subchapter applies only to a river authority that generates at least an annual average of 55 million kilowatt hours of electric energy.

### Sec. 152.153 — Authority for Economic Development Program

- (a) A river authority may sponsor and participate in an economic development program intended to strengthen the economic base and further the economic development of this state.
- (b) A determination by the board of directors of a river authority that an economic development program is intended and expected to accomplish the program’s stated purposes is conclusive with respect to whether the program serves the purposes of this subchapter.

### Sec. 152.154 — Program Area

An economic development program must be within:

- (1) the territorial boundaries of the sponsoring or participating river authority; or
- (2) the river authority's electric or water service area.

#### **Sec. 152.155 — Establishment of Program**

- (a) An economic development program may be established only by formal action of the board of directors of a river authority.
- (b) The board of directors shall:
  - (1) establish the goals of the program;
  - (2) impose requirements on persons participating in or receiving a benefit from the program; and
  - (3) provide restrictions, procedures, and budget limits the board of directors determines are necessary to ensure that the governmental purposes of this subchapter and the program are achieved.

#### **Sec. 152.156 — Participation in Program by Person Other Than River Authority**

An economic development program may involve the granting or lending of money, services, or property to a person engaged in an economic development activity.

#### **Sec. 152.157 — Staffing and Funding of Program**

- (a) A river authority may employ staff and spend its resources, other than money received from an ad valorem tax or a general appropriation, to further an economic development program.
- (b) A river authority may apply for and receive money, grants, or other assistance from any source to implement an economic development program.

#### **Sec. 152.158 — Agreement**

A river authority and any public or private person may enter into an agreement with respect to an economic development program.

**Sec. 152.159 — Guidelines for Assistance to Public  
Fire-fighting Organizations**

A river authority that proposes to provide scholarships, grants, loans, or financial assistance to a public fire-fighting organization shall adopt guidelines for determining:

- (1) eligibility for the assistance;
- (2) the amount of any loan, grant, or other assistance the river authority may provide; and
- (3) the types of equipment, facilities, education, or training for which the assistance may be used.

**Sec. 152.160 — Receipt of Electric Service as Condition for  
Participation in Program**

A river authority may not condition participation in or the receipt of a benefit from an economic development program on the receipt of electric service from the authority.

**Sec. 152.161 — Limitations on Use of Program**

- (a) A river authority may not use an economic development program to:
- (1) promote fuel switching or the substitution of electric power for another fuel or energy source; or
  - (2) provide an economic or other incentive to use electric power to preferentially market the use of electric power over another fuel or energy source.
- (b) This section does not limit a power granted to a river authority by other law.

*[Sections 152.162 to 152.200 reserved for expansion]*

**SUBCHAPTER E. DEBT OBLIGATIONS OF  
RIVER AUTHORITY**

**Sec. 152.201 — Authority to Issue Obligations**

- (a) A river authority may issue revenue bonds, notes, or other obligations for a purpose authorized by:

- (1) this chapter; or
  - (2) another law, if the purpose relates to the generation, transmission, or distribution of electricity.
- (b) This chapter constitutes full authority for a river authority to issue revenue bonds and other obligations without reference to any other law.

### **Sec. 152.202 — Sale or Exchange of Obligations**

Revenue bonds, notes, or other obligations issued under this subchapter may be:

- (1) sold for cash at a public or private sale;
- (2) issued on terms determined by the board of directors of the river authority in exchange for property or an interest in property the board of directors considers necessary or convenient for a purpose described by Section 152.201;
- (3) issued in exchange for other matured or unmatured obligations of the river authority in the same principal amounts; or
- (4) sold for cash in the amount equal to the principal amount of the obligations to:
  - (A) this state or an agency of this state;
  - (B) the United States; or
  - (C) an agency or corporation created or designated by this state or the United States.

### **Sec. 152.203 — Independent Appraisal**

- (a) Before a river authority may acquire property under Section 152.202(2) through the exchange of revenue bonds, notes, or other obligations, the authority must obtain a written appraisal of the property by an independent appraiser certifying that the property has a value equal to or greater than the par value of the bonds, notes, or other obligations.
- (b) The river authority shall:
- (1) maintain the appraisal on file as a public record; and

- (2) file a copy of the appraisal with the Texas Commission on Environmental Quality.

## **SUBCHAPTER F. HEDGING TRANSACTIONS**

### **Sec. 152.251 — Definition**

In this subchapter, “hedging” means buying or selling crude oil, fuel oil, natural gas, or electric energy futures or options, or similar contracts on those commodity futures, as a protection against loss due to price fluctuations.

### **Sec. 152.252 — Authority to Enter Into Hedging Contract**

- (a) A river authority or a corporation created under Section 152.051 may enter into a hedging contract and related security and insurance agreements.
- (b) A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission.

### **Sec. 152.253 — Payment Considered Fuel Expense**

A payment by a river authority or a corporation created under Section 152.051 under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense. The authority or corporation may credit any amount it receives under the contract or agreement against fuel expenses.

### **Sec. 152.254 — Investment of Money in Hedging Transaction**

- (a) Except as provided by Subsection (b), the board of directors of a river authority may determine and designate the amount of money to be invested in a hedging transaction.
- (b) The board of directors of the river authority by formal policy shall regulate the investment of money in hedging contracts. An investment may be made only for hedging purposes. The policy must provide restrictions and procedures for making an investment that a person of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then



prevailing, would follow in the management of the person's own affairs, not in regard to speculation but in regard to the permanent disposition of the person's money, considering:

- (1) the probable income; and
- (2) the probable safety of the person's capital.

#### **Sec. 152.255 — Recovery of Costs From Ratepayers**

This subchapter does not limit the authority of the Public Utility Commission of Texas to determine the recoverability of costs from ratepayers.

*[Sections 152.256 to 152.299 reserved for expansion]*

### **SUBCHAPTER G. ELECTRIC TRANSMISSION SERVICES AND FACILITIES OF RIVER AUTHORITY**

#### **Sec. 152.301 — Electric Transmission Services and Facilities**

Notwithstanding any other law, a river authority may:

- (1) provide transmission services, as defined by the Utilities Code or the Public Utility Commission of Texas, on a regional basis to any eligible transmission customer at any location within or outside the boundaries of the river authority; and
- (2) acquire, including by lease-purchase, lease from or to any person, finance, construct, rebuild, operate, or sell electric transmission facilities at any location within or outside the boundaries of the river authority.

#### **Sec. 152.302 — Limitations on Electric Transmission Facilities**

This subchapter does not:

- (1) authorize a river authority to construct electric transmission facilities for an ultimate consumer of electricity to enable that consumer to bypass the transmission or distribution facilities of its existing provider; or
- (2) relieve a river authority from an obligation to comply with each provision of the Utilities Code concerning a certificate of convenience and necessity for a transmission facility.

## **Appendix IV**

### UTILITIES CODE

#### TITLE 2. PUBLIC UTILITY REGULATORY ACT

##### SUBTITLE B. ELECTRIC UTILITIES

### **Chapter 32. Jurisdiction and Powers of Commission and Other Regulatory Authorities**

#### **SUBCHAPTER B. EXEMPTIONS FROM COMMISSION JURISDICTION**

##### **Sec. 32.051 — Exemption of River Authority From Wholesale Rate Regulation**

Notwithstanding any other provision of this title, the commission may not directly or indirectly regulate revenue requirements, rates, fuel costs, fuel charges, or fuel acquisitions that are related to the generation and sale of electricity at wholesale, and not to ultimate consumers, by a river authority operating a steam generating plant on or before January 1, 1999.

##### **Sec. 32.052 — Ability of Certain River Authorities to Construct Improvements**

A river authority operating a steam generating plant on or before January 1, 1999, may acquire, finance, construct, rebuild, repower, and use new or existing power plants, equipment, transmission lines, or other assets to sell electricity exclusively at wholesale to:

- (1) a purchaser in San Saba, Llano, Burnet, Travis, Bastrop, Blanco, Colorado, or Fayette County; or
- (2) a purchaser in an area served by the river authority on January 1, 1975.

##### **Sec. 32.053 — Ability of Certain River Authority Affiliates to Construct Improvements**

(a) This section applies only to a corporation that:

- (1) sells electricity exclusively at wholesale, and not to ultimate consumers;

- (2) is authorized by Chapter 152, Water Code; and
  - (3) acts on behalf of a river authority.
- (b) Notwithstanding a river authority's enabling legislation or Chapter 152, Water Code, a corporation may:
- (1) acquire, finance, construct, rebuild, repower, operate, or sell a facility directly related to the generation of electricity;
  - (2) sell, at wholesale only, the output of the facility to a purchaser, other than an ultimate consumer, at any location in this state; and
  - (3) purchase and sell electricity, at wholesale only, to a purchaser, other than an ultimate consumer, at any location in this state.
- (c) This subchapter does not prevent a corporation from purchasing transmission and related services from a river authority.
- (d) Except as provided by this section, the development, financing, ownership, and operation of a facility by a corporation is subject to all other applicable laws.
- (e) The property, gross receipts, and income of a corporation acting on behalf of a river authority under this section are subject to, and the corporation shall pay, taxes and assessments of the federal government, this state, a political subdivision of this state, or a taxing district of this state on the same basis as an exempt wholesale generator.
- (f) The proceeds from the sale of bonds or other obligations the interest on which is exempt from taxation and that are issued by a corporation or river authority subject to this section, other than a bond or obligation available to an investor-owned utility or exempt wholesale generator, may not be used by the corporation to finance the construction or acquisition of or the rebuilding or repowering of a facility for the generation of electricity by the corporation.
- (g) Notwithstanding any other law, the board of directors of a river authority may sell, lease, loan, or otherwise transfer some, all, or substantially all of the electric generation property of the river authority to a nonprofit corporation authorized under this section or Chapter 152, Water Code. The property transfer shall be made under terms and conditions approved by the board of directors of the river authority.

- (h) Subsections (a)-(f) do not apply to a corporation created under Chapter 152, Water Code, to serve an area described in Section 32.052.

**Sec. 32.054 — Restrictions on Authority of Corporations or River Authority**

- (a) This subchapter does not authorize a river authority to acquire, install, construct, make additions to, or operate steam generating plants having an aggregate capacity greater than 5,000 megawatts to serve a purchaser in the area served by the river authority on January 1, 1975.
- (b) A river authority or a corporation acting on behalf of a river authority under this subchapter may provide retail service only to a retail customer served by the river authority or corporation on September 1, 1995.
- (c) Except as provided by this subchapter, this subchapter does not limit a power granted a river authority in its enabling legislation or other applicable law.

LOWER COLORADO RIVER AUTHORITY

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