

Brazos River Authority

Enabling Legislation

Table of Contents

Sec. 8502.001. Creation. 3

Sec. 8502.002. Definitions. 3

Sec. 8502.003. Territory. 3

Sec. 8502.004. Powers. 4

Sec. 8502.005. Limitation of Authority; State Supervision. 5

Sec. 8502.006. Dams and Reservoirs; Water Supply Contracts..... 5

Sec. 8502.007. Priority of Rights..... 6

Sec. 8502.008. Bond Provisions..... 6

Sec. 8502.009. Board of Directors; Bonds; Quorum; Officers. 7

Sec. 8502.010. Creation of Master District; Water Control and Improvement District..... 7

Sec. 8502.011. Bond Election Required. 8

Sec. 8502.012. Additional Powers and Duties. 8

Sec. 8502.013. Disposition of Property. 9

Sec. 8502.014. Acquisition of Property; Eminent Domain..... 10

Sec. 8502.015. Contracts, Grants, and Loans..... 11

Sec. 8502.016. Rules..... 11

Sec. 8502.017. Use of Brazos River and Tributaries. 11

Sec. 8502.018. Default Procedures..... 12

Sec. 8502.019. Limited Liability for Aquatic Herbicide Application..... 13

CHAPTER 8502. SPECIAL DISTRICT LOCAL LAWS CODE

BRAZOS RIVER AUTHORITY

Sec. 8502.001. Creation.

(a) A conservation and reclamation district to be known as the "Brazos River Authority" is created. The authority is a river authority, a governmental agency, a municipality, 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.

(c) The authority may exercise the powers expressly granted by Section 59, Article XVI, Texas Constitution, to districts created to conserve, control, and utilize to beneficial service the storm waters and floodwaters of the rivers and streams of the state, as well as those powers that may be contemplated and implied by the purposes of that provision of the constitution and that are conferred by general law and the provisions of this chapter. In addition, the authority may discover, develop, and produce groundwater in the Brazos River basin for the use of its customers.

(d) The authority may exercise all the rights and powers of an independent governmental agency, a municipality, and a body politic and corporate to formulate plans deemed essential to its operation and for its administration in the control, storing, preservation, and distribution for all useful purposes of the storm waters and floodwaters of the Brazos River and its tributary streams.

(e) The authority may exercise the same authority and power of control and regulation over the storm waters and floodwaters of the Brazos River and its tributaries as may be exercised by the state, subject to the provisions of the constitution and the acts of the legislature.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.001 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.002. Definitions.

In this chapter:

- (1) "Authority" means the Brazos River Authority.
- (2) "Board" means the board of directors of the authority.
- (3) "Director" means a member of the board.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.002 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.003. Territory.

The territory of the authority comprises the watershed of the Brazos River, as determined by rule of the Texas Water Development Board, except the portions lying within Freestone, Leon, and Madison counties.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.003 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.004. Powers.

(a) The authority may exercise, in addition to all the general powers vested by the constitution and statutes in a governmental agency and body politic and corporate for the greatest practicable measure of conservation and beneficial utilization of storm waters, floodwaters, and unappropriated flow waters, the powers of control and employment of the floodwaters, storm waters, unappropriated flow waters, and groundwater of the authority in the manner and for the purposes provided by this section.

(b) The authority may provide, through all practical and legal means, for the control and the coordination of the regulation of the waters of the watershed of the Brazos River and its tributary streams as a unit.

(c) The authority may provide, by adequate organization and administration, for the preservation of the equitable rights of the people of the different sections of the watershed area in the beneficial use of storm waters, floodwaters, and unappropriated flow waters of the Brazos River and its tributary streams.

(d) The authority may provide for storing, controlling, and conserving storm waters, floodwaters, and unappropriated flow waters of the Brazos River and its tributaries, preventing the escape of those waters without the maximum of public service, preventing the devastation of lands by recurrent overflows, and protecting life and property in the watershed area from uncontrolled floodwaters.

(e) The authority may provide for the conservation of waters essential for the domestic uses of the people of the watershed of the Brazos River and its tributaries, including all necessary water supplies for municipalities.

(f) The authority may provide for the irrigation of lands in the watershed of the Brazos River and its tributary streams where irrigation is required for agricultural purposes, or may be considered helpful to more profitable agricultural production, and provide for the equitable distribution of storm waters, floodwaters, and unappropriated flow waters to the regional potential requirements for all uses. Plans and works provided by the authority, and works provided under the authorization of the authority, should give primary consideration to the necessary and potential needs for water by or within the areas constituting the watershed of the Brazos River and its tributary streams.

(g) The authority may provide for the better encouragement and development of drainage systems and provisions for drainage of lands in the valleys of the Brazos River and its tributary streams needing drainage for profitable agricultural production and drainage for other lands in the watershed area of the authority requiring drainage for the most advantageous use.

(h) The authority may provide for the conservation of all soils against destructive erosion and for the prevention of increased flood danger caused by destructive soil erosion.

(i) The authority may provide for controlling and making available for employment floodwaters, storm waters, and unappropriated flow waters in the development of commercial and industrial enterprises in all sections of the watershed area of the authority.

(j) The authority may provide for the control, storage, and employment of floodwaters, storm waters, and unappropriated flow waters in the development and distribution of hydroelectric power, where this use may be economically coordinated with other and superior uses and subordinated to the uses declared by law to be superior.

(k) The authority may provide for each purpose for which floodwaters, storm waters, and unappropriated flow waters, when controlled and conserved, may be used in the performance of a useful service as contemplated and authorized by the provisions of

the constitution and the public policy it declares.

(l) The authority may provide for the development of groundwater and may make groundwater available for use for domestic, municipal, irrigation, commercial, and industrial purposes.

(m) This chapter does not confer on the authority any power under Chapter 36, Water Code, to regulate the groundwater of other landowners.

(n) When producing groundwater, the authority is subject to all laws, regulations, and rules relating to groundwater, including the rules of a groundwater conservation district and the Central Carrizo-Wilcox Coordinating Council.

(o) The authority may not transport or assist in the transport of groundwater pumped in the basin outside the Brazos River basin.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.004 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(c), eff. September 1, 2007.

Sec. 8502.005. Limitation of Authority; State Supervision.

The powers and duties granted to the authority by this chapter are subject to all legislative declarations of public policy in the maximum utilization of the storm waters, floodwaters, and unappropriated flow waters of the Brazos River watershed and developed groundwater of the Brazos River basin for the purposes for which the authority is created, as expressed and indicated in this chapter, and subject to the continuing rights of supervision by the state.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.005 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.006. Dams and Reservoirs; Water Supply Contracts.

(a) The authority may construct, acquire, equip, acquire storage rights at, and operate dams and reservoirs that, in the opinion of the board, are useful in carrying out the powers conferred on the authority by this chapter, regardless of whether a dam is designed to serve a single purpose or multiple purposes.

(b) The authority may provide water supply lines and water purification and pumping facilities.

Text of subsection effective until April 1, 2009

(c) The authority may execute contracts with municipalities in the state substantially in the manner prescribed by Section 402.020, Local Government Code, for districts organized or created under Section 59, Article XVI, Texas Constitution, and may execute water supply contracts with other users of water.

Text of subsection effective on April 1, 2009

(c) The authority may execute contracts with municipalities in the state substantially in the manner prescribed by Section 552.020, Local Government Code, for districts organized or created under Section 59, Article XVI, Texas Constitution, and may execute water supply contracts with other users of water.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.77(33), eff. April 1, 2009.

Renumbered from Water Code, Section 221.006 by Acts 2007, 80th Leg., R.S., Ch.

921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.007. Priority of Rights.

This chapter does not change any existing priority of right under the laws of this state to the use of waters of this state, including any rights of municipalities that maintain and use storage structures in the bed of the Brazos River or its tributaries.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.007 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.008. Bond Provisions.

(a) Bonds may be:

(1) sold for cash, at public or private sale, and at the price the board determines;

(2) issued on the terms the board determines 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 purpose; or

(3) issued to refund bonds issued at any time under authority of this chapter.

(b) Bonds must be authorized by resolution of the board.

(c) A resolution authorizing bonds may contain provisions that are part of the contract between the authority and the purchasers and subsequent holders of the bonds:

(1) reserving the right to redeem the bonds at the time, in the amount, and at the price provided;

(2) providing for the setting aside of 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 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 subsequently received by the authority with respect to the property, real, personal, or mixed, to be acquired or constructed with the bonds or with proceeds of the bonds, or all or any part of the gross or net revenues subsequently received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds later issued, or the proceeds of the bonds, may be applied;

(5) agreeing to set and collect rates and charges sufficient to produce revenues that are adequate to pay the items specified in any resolution or resolutions authorizing any bonds, and prescribing the use and disposition of all revenues;

(6) prescribing limitations on the issuance of additional bonds and on all agreements that may be made with the purchasers and successive holders of the bonds;

(7) relating to the construction, extension, improvement, operation, maintenance, depreciation, replacement, and repair of the properties of the authority and the carrying of insurance on all or any part of the property covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) establishing the procedure, if any, by which, if the authority so desires,

the terms of any contract with the bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to such amendment or abrogation, and the manner in which the consent is evidenced;

(9) providing for the execution and delivery by the authority to a bank or trust company authorized by law to accept trusts, or to the United States or any office or agency of the United States, of indentures or agreements authorized to be made with or for the benefit of the bondholders and any other provisions contained in the indentures or agreements; and

(10) making other provisions, not inconsistent with this chapter, that the board approves.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.008 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.009. Board of Directors; Bonds; Quorum; Officers.

(a) The board consists of 21 members. Members of the board and their successors serve staggered terms of six years and until their successors are designated and have qualified. The terms of seven members of the board expire on February 1 of each odd-numbered year.

(b) The governor shall appoint the directors at large with the advice and consent of the senate. Within 60 days after appointment, each director shall take and subscribe an oath of office similar to the oaths administered to county commissioners and shall execute bond in the amount of \$5,000, payable to the authority. The premium on the bond shall be paid by the authority. The bond, after being recorded in the official bond records of the county in which the authority maintains its office, shall be deposited with a depository selected and approved for the deposit of the funds of the authority.

(c) A vacancy occurring on the board shall be filled by appointment of the governor with the advice and consent of the senate.

(d) Eleven members of the board constitute a quorum to transact business.

(e) 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 from among its members an assistant presiding officer and a secretary. The board shall appoint a treasurer. The treasurer shall furnish a bond in an amount equal to 75 percent of the amount of money estimated to be on hand during the year, not to exceed \$100,000.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.009 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.010. Creation of Master District; Water Control and Improvement District.

A master district is created having all the powers, duties, and functions, and subject to applicable and practicable procedures for those districts, to accomplish the purposes of this chapter, as provided by Chapter 49, Water Code, and the provisions of the Water Code applicable to water control and improvement districts.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.010 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(d), eff. September 1, 2007.

Sec. 8502.011. Bond Election Required.

The authority may not issue bonds or incur any form of continuing obligation or indebtedness payable from ad valorem taxes for purposes of effecting improvements comprehended in the plan of organization and administration of the authority, or incur any indebtedness in the form of a continuing charge on lands or other physical properties within the authority, unless the proposition has been submitted to the qualified voters of the authority, or in appropriate cases the qualified voters of a defined area within the authority, and is approved by a majority of the electors voting on the proposition.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.011 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.012. Additional Powers and Duties.

(a) The authority is a district and a river authority as defined by Chapter 30, Water Code. All the provisions of Chapter 30, Water Code, are applicable to the authority.

(b) As used in this section:

(1) "Person" means any individual, partnership, corporation, public utility, or other private entity or any public agency.

(2) "Public agency" means an authority, district, municipality or other political subdivision, joint board, or other public agency created and operating under the laws of this state and any entity created to operate or act on behalf of a public agency.

(c) The authority and all persons may enter into contracts with each other, in any manner and on terms to which the parties agree, with respect to any power, function, facility, or service that the authority is authorized by law to provide or finance. Public agencies may use and pledge any available revenues for and in the payment of amounts due under a contract as an additional source of payment of the contract and may covenant with respect to available revenues to assure the availability of the revenues when required. In this subsection, "revenues" does not mean or include revenues from ad valorem taxes levied and collected by a public agency or the proceeds from the sale or refunding of bonds of a public agency that are to be wholly or partially paid from ad valorem taxes levied and collected by the public agency unless the use or pledge of the tax revenues or bond proceeds is approved by the qualified voters of the public agency at an election called for the purpose of levying taxes or issuing or refunding bonds, or both, for the purpose of using or pledging their revenues or proceeds under contracts entered into under this subsection.

(d) A public agency may set, charge, and collect fees, rates, charges, rentals, and other amounts for a service or facility provided by a utility operated by the public agency, or provided under or in connection with a contract with the authority, from the inhabitants of the authority or from any users or beneficiaries of the utility, service, or facility, including:

(1) water charges;

(2) sewage charges;

(3) solid waste disposal system fees and charges, including garbage collection or handling fees; and

(4) other fees or charges.

(e) A public agency may use and pledge the fees, rates, charges, rentals, and other

amounts authorized by Subsection (c) to make payments to the authority required under a contract with the authority and may covenant to do so in amounts sufficient to make all or any part of the payments to the authority when due. If the parties agree in the contract, the payments shall constitute an expense of operation of any facility or utility operated by the public agency.

(f) The authority, acting through the board, may carry out any activities and acquire, purchase, construct, own, operate, maintain, repair, improve, or extend and may lease or sell, on terms and conditions, including rentals or sale prices, on which the parties agree, all works, improvements, facilities, plants, buildings, structures, equipment, and appliances, and all real and personal property, or any interest in real or personal property, related to the works, improvements, facilities, plants, buildings, structures, equipment, and appliances, that are incident to or necessary in carrying out or performing any power or function of the authority under this section.

(g) The authority may issue bonds with respect to the acquisition, purchase, construction, maintenance, repair, improvement, and extension of works, improvements, facilities, plants, buildings, structures, appliances, and property for the purpose of exercising any of its powers and functions under this section in the manner provided by this chapter or any other applicable law.

(h) The authority may issue revenue bonds to pay for the costs of feasibility studies for proposed projects of the authority, including engineering, planning and design, and environmental studies. The authority may include in any revenue bond issue the funds to operate and maintain, for a period not to exceed two years after completion, the facilities acquired or constructed through the revenue bond issue.

(i) If bonds issued by the authority recite that they are secured by a pledge of payments under a contract, a copy of the contract and the proceedings relating to the contract may be submitted to the attorney general along with the bonds. If the attorney general finds that the bonds have been authorized and the contract has been made and entered into in accordance with law, the attorney general shall approve the bonds and the contract, and after the approval, the bonds and the contract are incontestable in any court or other forum for any reason and are valid and binding in accordance with their terms and provisions for all purposes.

(j) The provisions of Chapters 618, 1201, 1204, 1207, and 1371, Government Code, are applicable to bonds issued by the authority.

(k) This section is wholly sufficient authority for the issuance of bonds, the execution of contracts, and the performance of other acts and procedures authorized by this section by the authority and all persons, including public agencies, without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, including any charter of a home-rule municipality, this section shall prevail and control. The authority and all persons, including public agencies, may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.012 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(e), eff. September 1, 2007.

Sec. 8502.013. Disposition of Property.

(a) Nothing in this chapter shall be construed as authorizing the authority, and it is not authorized, to mortgage or otherwise encumber any of its property of any kind, real, personal, or mixed, or any interest in property, or to acquire any property or interest

subject to a mortgage or conditional sale; provided, however, that this section shall not be construed as preventing the pledging of the revenues of the authority as provided by this chapter.

(b) Nothing in this chapter shall be construed as authorizing the sale, release, or other disposition of property of any kind, real, personal, or mixed, or any interest in property, by the authority or through any court proceedings or otherwise; provided, however, that the authority may sell for cash any property or interest if the board by affirmative vote of 11 of its members determines that the property or interest is not necessary to the business of the authority and approves the terms of the sale. Except by sale as expressly authorized by 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 the state.

(c) All authority property is exempt from forced sale, and nothing in this chapter authorizes 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.

(d) Notwithstanding any restrictions or provisions in this section or in this chapter, the authority, acting by a majority vote of the board, may construct or purchase, from any person, firm, or corporation (referred to in this subsection as "customer") with which the authority has contracted to sell hydroelectric power, transmission lines and other property used or to be used by the customer for the transmission of or in connection with power purchased or to be purchased from the authority. The authority may lease all or any portion of that property to the customer for all or a portion of the time during the term of the hydroelectric power purchase contract. The lease may contain provisions that are valid and enforceable giving the lessee the right to purchase from the authority all or any portion of the property at or within the time specified in the lease and for a price and on terms and conditions specified in the lease; provided, however, that the price may not be less than the depreciated value, determined in the manner prescribed in the lease, plus one percent of the original cost of the property.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.013 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.014. Acquisition of Property; Eminent Domain.

(a) The authority may acquire by purchase, lease, or gift or in any other manner 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, necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.

(b) The authority may acquire, by purchase, condemnation, or otherwise, any property the board determines necessary to make effectual and practicable the construction and operation of all works, improvements, and services that are planned ultimately to be provided by the authority to accomplish any of the purposes for which the authority was created. The acquisition or condemnation may be either of the fee simple title or of a lesser title or an easement only, within the discretion of the board; provided, however, that a person may not be deprived of any defense available under the general law of eminent domain; and provided, further, that the authority may not acquire or operate a steam generating plant for the production and sale of electric energy and, except for the purpose of acquiring the necessary area below or above the anticipated high-water line of a reservoir, may not condemn any property of a rural electrification cooperative or other corporations engaged in the generation or sale of electric energy to the public.

(c) The authority may exercise the power of eminent domain for the purpose of acquiring 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 any body politic, that is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter, in the manner provided by general law with respect to condemnation or, at the option of the authority, in the manner provided by statutes relative to condemnation by districts organized under general law under Section 59, Article XVI, Texas Constitution.

(d) In condemnation proceedings being prosecuted by the authority, the authority is not required to give bond for appeal or bond for cost.

(e) The authority may overflow and inundate any public lands and public property and may require the relocation of roads and highways in the manner and to the extent permitted to districts organized under general law under Section 59, Article XVI, Texas Constitution.

(f) If the authority, in the exercise of the power of eminent domain or power of relocation or any other power granted under this chapter, makes necessary the relocation, raising, rerouting, changing the grade, or altering the construction of any highway, railroad, electric transmission line, or pipeline, all necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the authority.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.014 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.015. Contracts, Grants, and Loans.

(a) The board may negotiate and contract with the federal government or with any of its agencies for grants, loans, and advancements from the United States for the furtherance of any purpose set forth in this chapter.

(b) The authority may receive and accept grants, loans, or allotments from the United States and others for furtherance of any of the purposes set forth in this chapter.

(c) An opinion from the attorney general as to whether a grant, loan, or allotment has been received by the authority from the United States or others shall be authority for the action of any person charged with any duty contingent on such grant, loan, or allotment.

Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.015 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.016. Rules.

The board may make all necessary rules for the government and control of the authority not inconsistent with the constitution and laws of the state.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Water Code, Section 221.016 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.017. Use of Brazos River and Tributaries.

In the prosecution of the plans for which the authority has been created for the storing, controlling, conserving, and distributing for useful purposes of the storm waters, floodwaters, and unappropriated flow waters of the Brazos River watershed and developed groundwater from the Brazos River basin for the use of its customers, the authority may use the bed and banks of the Brazos River and its tributary streams for any and all purposes necessary to the accomplishment of the plans of the authority.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.017 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.018. 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 the:

(1) payment of the interest on any bonds as the interest becomes due and payable;

(2) payment of the principal of any bonds as they become due and payable, whether at maturity, by call for redemption, or otherwise; or

(3) 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 may, and on the written request of 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 the holders of all the bonds, 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;

(2) bring suit on the bonds or the appurtenant coupons;

(3) by action or suit in equity, require the board 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 board 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 actions 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 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 specified in the resolution authorizing bonds and the costs and disbursements of the suit, action, or proceeding and apply that revenue in conformity with this chapter and the resolution authorizing the bonds.

(d) In a suit, action, or proceeding by a trustee or receiver, if any, under this section, counsel fees and expenses of the trustee and of the receiver, if any, constitute taxable disbursements, and all costs and disbursements allowed by the court shall be a first

charge on any revenue pledged to secure the payment of the bonds.

(e) Subject to the provisions of the constitution, the courts of McLennan County have jurisdiction of a suit, action, or proceeding under this section by a trustee on behalf of the bondholders and of all proceedings 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.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.018 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.

Sec. 8502.019. Limited Liability for Aquatic Herbicide Application.

(a) In this section, "commercially licensed aquatic herbicide applicator" means a person who holds a commercial applicator license issued by the Department of Agriculture under Chapter 76, Agriculture Code, that authorizes the application of aquatic herbicides.

(b) Except as provided by Chapter 12, Parks and Wildlife Code, an authority employee holding a noncommercial aquatic herbicide applicator license or a commercially licensed aquatic herbicide applicator working under contract with the authority is not liable for damages in excess of \$2 million for personal injury, property damage, or death resulting from the application by the applicator of aquatic herbicide in compliance with applicable law and the terms of the license or permit.

Added by Acts 2003, 78th Leg., ch. 996, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Water Code, Section 221.019 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 13.006(a), eff. September 1, 2007.