

By: Rogers

H.B. No. 5406

Substitute the following for H.B. No. 5406:

By: King of Uvalde

C.S.H.B. No. 5406

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Cross Timbers Regional Utility  
3 Authority; granting a limited power of eminent domain; providing  
4 authority to issue bonds; providing authority to impose assessments  
5 and fees.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
8 Code, is amended by adding Chapter 7966A to read as follows:

9 CHAPTER 7966A. CROSS TIMBERS REGIONAL UTILITY AUTHORITY

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7966A.0101. DEFINITIONS. In this chapter:

12 (1) "Authority" means the Cross Timbers Regional  
13 Utility Authority.

14 (2) "Board" means the board of directors of the  
15 authority.

16 (3) "Director" means a member of the board.

17 Sec. 7966A.0102. NATURE OF AUTHORITY. (a) The authority is  
18 a conservation and reclamation district created under Section 59,  
19 Article XVI, Texas Constitution.

20 (b) The authority is a political subdivision of this state.

21 Sec. 7966A.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

22 (a) The authority is created to serve a public use and benefit.

23 (b) All land and other property included in the boundaries  
24 of the authority will benefit from the works and projects

1 accomplished by the authority under the powers conferred by Section  
2 59, Article XVI, Texas Constitution.

3 (c) The creation of the authority is essential to accomplish  
4 the purposes of Section 59, Article XVI, Texas Constitution.

5 SUBCHAPTER B. AUTHORITY TERRITORY

6 Sec. 7966A.0201. AUTHORITY TERRITORY. The authority is  
7 composed of all of the territory contained in Palo Pinto County,  
8 Parker County, and Stephens County, as that territory may have been  
9 modified under:

10 (1) Subchapter H, Chapter 54, Water Code;

11 (2) Subchapter J, Chapter 49, Water Code; or

12 (3) other law.

13 SUBCHAPTER C. BOARD OF DIRECTORS

14 Sec. 7966A.0301. COMPOSITION OF BOARD; TERMS. (a) The  
15 authority is governed by a board of seven directors.

16 (b) Directors are appointed as follows:

17 (1) one director appointed by the Commissioners Court  
18 of Palo Pinto County;

19 (2) three directors appointed by the Commissioners  
20 Court of Parker County;

21 (3) one director appointed by the Commissioners Court  
22 of Stephens County; and

23 (4) two directors appointed by the city council of the  
24 City of Mineral Wells.

25 (c) Directors serve staggered four-year terms. Directors  
26 may not serve more than two terms.

27 (d) When a director's term expires, the appointing entity

1 shall appoint a successor.

2 (e) The board shall select a presiding officer from among  
3 the directors who have served on the board for at least two years to  
4 serve in that position for the remainder of the director's term.

5 Sec. 7966A.0302. QUALIFICATIONS FOR OFFICE. (a) Each  
6 director must be a qualified voter of the county or municipality  
7 that appoints the director.

8 (b) An officer, employee, or member of an appointing entity  
9 or of a political subdivision located in the authority may not be a  
10 director.

11 Sec. 7966A.0303. BOARD VACANCY. A vacancy in the office of  
12 director shall be filled for the unexpired term, if applicable, by  
13 the appointing entity that appointed the previous director.

14 Sec. 7966A.0304. REMOVAL FROM OFFICE. (a) Under  
15 procedures adopted by board rule, the board may remove a director  
16 from office only for malfeasance in office.

17 (b) The procedures must be designed to guarantee due process  
18 to the director.

19 Sec. 7966A.0305. VOTING REQUIREMENT. A majority vote of  
20 the board is required to adopt any measure.

21 SUBCHAPTER D. POWERS AND DUTIES

22 Sec. 7966A.0401. MUNICIPAL UTILITY DISTRICT POWERS. Except  
23 as otherwise provided by this chapter, the authority has the  
24 rights, powers, privileges, and functions conferred and imposed by  
25 the general law applicable to a municipal utility district created  
26 under Section 59, Article XVI, Texas Constitution, including those  
27 conferred by Chapters 30, 49, and 54, Water Code.

1       Sec. 7966A.0402. ACQUISITION AND USE OF PROPERTY. The  
2 authority may operate, control, purchase, construct, lease, or  
3 acquire, inside or outside the boundaries of the authority,  
4 property, works, facilities, or improvements, whether previously  
5 existing or to be made, constructed, or acquired, that the board  
6 finds necessary to carry out the powers granted by this chapter or  
7 general law.

8       Sec. 7966A.0403. WATER RIGHTS. The authority may acquire,  
9 develop, and use rights to groundwater or surface water.

10       Sec. 7966A.0404. EMINENT DOMAIN. (a) Except as provided by  
11 Subsection (b), to carry out an authority power or purpose, the  
12 authority, in the manner provided by Chapter 49, Water Code, may  
13 exercise the power of eminent domain to acquire land, an easement,  
14 or other property inside or outside the authority's boundaries.

15       (b) The authority may not exercise the power of eminent  
16 domain to acquire land owned by a municipal water district that the  
17 district has acquired as a surface water reservoir site.

18       Sec. 7966A.0405. GENERAL CONTRACT POWERS. (a) The  
19 authority may enter into a contract with a person, including a  
20 political subdivision, on terms the board considers desirable,  
21 fair, and advantageous for:

- 22               (1) the purchase or sale of raw or treated water;  
23               (2) the purchase, lease, use, management, control, or  
24 operation of water treatment or distribution facilities or sewer  
25 collection and treatment facilities, all or part of the facilities  
26 or systems owned by the other political subdivision, in accordance  
27 with terms mutually agreed on by the governing bodies of the

1 contracting parties; or  
2 (3) planning, making preliminary surveys,  
3 investigations, or feasibility reports, engineering, or reports of  
4 any kind.

5 (b) A contract for the acquisition of an existing water or  
6 sewer facility may be made on terms approved by the contracting  
7 parties.

8 (c) If changes in plans or specifications are necessary  
9 after performance of a construction contract begins, the board may  
10 approve change orders necessary to decrease or increase the amount  
11 of materials, equipment, or supplies to be provided under the  
12 contract or the amount of work to be performed. The total cost of  
13 the change orders may not increase the original contract price by  
14 more than 25 percent.

15 Sec. 7966A.0406. WATER, SEWER, SOLID WASTE, OR DRAINAGE  
16 CONTRACTS; ELECTION NOT REQUIRED. The authority and a municipal  
17 corporation or other political subdivision may enter into a water,  
18 sewer, solid waste, or drainage contract or any combination of  
19 those contracts without the necessity of an election by any  
20 contracting party to approve the contract.

21 Sec. 7966A.0407. TREATMENT OF PAYMENTS UNDER CERTAIN  
22 MUNICIPAL CORPORATION CONTRACTS. A payment by a municipal  
23 corporation for the purchase of water or the treatment and disposal  
24 of sewage is a maintenance and operating expense of the utility  
25 system or combined systems of the municipal corporation unless the  
26 contract:

27 (1) provides for the municipal corporation to acquire

1 an ownership interest in the facilities; or

2 (2) makes other provisions.

3 Sec. 7966A.0408. TAX PROHIBITION. The authority may not  
4 impose a tax.

5 SUBCHAPTER E. BONDS

6 Sec. 7966A.0501. REVENUE BONDS. The authority may issue  
7 revenue bonds to carry out any of its powers, functions, or  
8 obligations.

9 Sec. 7966A.0502. BONDS FOR CERTAIN FACILITIES. If the  
10 authority operates a facility under contract with a municipal  
11 corporation, it may, if the contract permits the issuance, issue  
12 bonds to improve or extend the facility.

13 SECTION 2. (a) Not later than the 45th day after the  
14 effective date of this Act, the city council of the City of Mineral  
15 Wells and the commissioners courts of Palo Pinto County, Parker  
16 County, and Stephens County each shall appoint the appropriate  
17 number of directors to the board of directors of the Cross Timbers  
18 Regional Utility Authority as required under Section 7966A.0301,  
19 Special District Local Laws Code, as added by this Act.

20 (b) Notwithstanding Section 7966A.0301(e), Special  
21 District Local Laws Code, as added by this Act, at the first meeting  
22 of the board of directors of the Cross Timbers Regional Utility  
23 Authority after the effective date of this Act, the board shall  
24 select a presiding officer from among the directors appointed under  
25 Subsection (a) of this section to serve as presiding officer for the  
26 remainder of the director's term.

27 (c) The presiding officer selected under Subsection (b) of

1 this section will serve an initial term that expires January 1,  
2 2027. The six other directors appointed under Subsection (a) of  
3 this section shall draw lots to determine which three directors  
4 will serve initial terms that expire on January 1, 2025, and which  
5 three directors will serve initial terms that expire January 1,  
6 2027.

7 SECTION 3. (a) The legal notice of the intention to  
8 introduce this Act, setting forth the general substance of this  
9 Act, has been published as provided by law, and the notice and a  
10 copy of this Act have been furnished to all persons, agencies,  
11 officials, or entities to which they are required to be furnished  
12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
13 Government Code.

14 (b) The governor, one of the required recipients, has  
15 submitted the notice and Act to the Texas Commission on  
16 Environmental Quality.

17 (c) The Texas Commission on Environmental Quality has filed  
18 its recommendations relating to this Act with the governor, the  
19 lieutenant governor, and the speaker of the house of  
20 representatives within the required time.

21 (d) All requirements of the constitution and laws of this  
22 state and the rules and procedures of the legislature with respect  
23 to the notice, introduction, and passage of this Act are fulfilled  
24 and accomplished.

25 SECTION 4. (a) Section 7966A.0404, Special District Local  
26 Laws Code, as added by Section 1 of this Act, takes effect only if  
27 this Act receives a two-thirds vote of all the members elected to

1 each house.

2 (b) If this Act does not receive a two-thirds vote of all the  
3 members elected to each house, Subchapter D, Chapter 7966A, Special  
4 District Local Laws Code, as added by Section 1 of this Act, is  
5 amended by adding Section 7966A.0404 to read as follows:

6 Sec. 7966A.0404. NO EMINENT DOMAIN POWER. The authority  
7 may not exercise the power of eminent domain.

8 SECTION 5. This Act takes effect September 1, 2023.