

By: Armbrister

S.B. No. 1276

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the Lavaca-Navidad River Authority, formerly known as  
3 the Jackson County Flood Control District.

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

5 SECTION 1. Subsections (a) and (b), Section 1, Chapter 186,  
6 Acts of the 50th Legislature, Regular Session, 1947, are amended to  
7 read as follows:

8 (a) There is hereby created and established within the State  
9 of Texas, in addition to the Districts into which the state has  
10 heretofore been divided, a Conservation and Reclamation District to  
11 be known as the Lavaca-Navidad River Authority [~~Jackson County~~  
12 ~~Flood Control District~~], (hereinafter called the District), and  
13 consisting of that part of the State of Texas which is known as and  
14 included within the boundaries of Jackson County, Texas (the  
15 boundaries of the District being coextensive with the boundaries of  
16 Jackson County, Texas, and the District including all of the lands  
17 and other property, both real and personal, within the boundaries  
18 of said county). Such District shall be a governmental agency and  
19 body politic and corporate, with the powers of government and with  
20 the authority to exercise the rights, privileges, and functions  
21 hereinafter specified, the creation and establishment of such  
22 District being essential to the accomplishment of the purposes of  
23 Section 59 of Article XVI, Constitution of Texas, including the  
24 control, storing, preservation, and distribution of the storm and

1 flood waters, and the waters of the rivers and streams of Jackson  
2 County and their tributaries, inside and outside the boundaries of  
3 the District, for domestic, municipal, flood control, irrigation,  
4 agricultural, mining and recovery of minerals, hydroelectric  
5 power, navigation, recreation and pleasure, public parks, game  
6 preserves, and other useful purposes, the development of parks on  
7 lands owned or acquired by the District, the reclamation and  
8 drainage of the overflow land of Jackson County, the conservation  
9 and development of forests, development, generation, distribution,  
10 and sale of electric power and energy inside or outside the  
11 boundaries of the District, and to aid in the protection and  
12 promotion of navigation on the navigable waters by regulating the  
13 flood and storm waters that flow into said navigable streams. In  
14 addition, the District may discover, develop, and produce  
15 groundwater within the boundaries of the Lavaca River Basin for use  
16 within that portion of a county located within the boundaries of the  
17 Lavaca River Basin where groundwater is discovered, developed, and  
18 produced and may coordinate and contract with groundwater  
19 conservation districts to engage in conjunctive groundwater and  
20 surface water management.

21 (b) The management and control of the District shall be  
22 vested in a Board of Directors consisting of nine (9) members, who  
23 must reside within the District and shall be freehold property  
24 taxpayers and legal voters of the State of Texas. The [~~the~~]  
25 members of the Board of Directors shall be appointed by the Governor  
26 of Texas with the advice and consent of [~~and confirmed by~~] the  
27 Senate. As soon as practicable after the passage of this Act (as

1 hereby amended), the members of the Board of Directors shall be  
2 appointed (hereinafter referred to as "First Board"). In  
3 appointing the members of the First Board, the Governor shall  
4 appoint three (3) members to serve until May 1, 1961, and until  
5 their successors are appointed and qualified, three (3) members to  
6 serve until May 1, 1963, and until their successors are appointed  
7 and qualified, and three (3) members to serve until May 1, 1965, and  
8 until their successors are appointed and qualified. Except for the  
9 First Board, the terms of office of the members of the Board of  
10 Directors shall be for six (6) years ending on May 1st, and until  
11 their successors are appointed and qualified, three (3) members to  
12 be appointed during the month of April of each odd-numbered year by  
13 the Governor to succeed the members whose terms of office shall  
14 expire on the following May 1st. If a vacancy on the Board of  
15 Directors occurs because of the resignation or death of a member, or  
16 otherwise, the Governor shall fill the same for the unexpired term  
17 by the appointment of a successor member. Each Director  
18 [~~Directors~~] shall qualify by taking the official oath of office and  
19 filing a good and sufficient bond with the Secretary of State in the  
20 amount of One Thousand Dollars (\$1,000.), which shall be payable to  
21 the District, conditioned upon the faithful performance of his (or  
22 her) official duties as a Director.

23 SECTION 2. Section 2, Chapter 186, Acts of the 50th  
24 Legislature, Regular Session, 1947, is amended to read as follows:

25 Sec. 2. Except as expressly limited by this Act, the  
26 District shall have and is hereby authorized to exercise all  
27 powers, rights, privileges and functions which are now, or

1 hereafter may be, conferred by General or Special Law upon any  
2 [~~flood control~~] District or Districts created pursuant to, or  
3 operating under, Section 59 of Article XVI, Constitution of Texas.  
4 Without in any way limiting the generality of the foregoing, the  
5 District shall have and is hereby authorized to exercise the  
6 powers, rights, privileges, and functions described by Section 1 of  
7 this Act. In addition, the District has the following powers,  
8 rights, privileges, and functions:

9 (a) To acquire by lease, gift, devise, purchase,  
10 condemnation, or in any other manner provided by law and to  
11 construct, maintain, use, and operate any property or any interest  
12 in property, including real or personal property, inside or outside  
13 the boundaries of the District, necessary or convenient to the  
14 District's powers, rights, privileges, and functions under this Act  
15 [~~otherwise, lands and rights and interests therein and any other~~  
16 ~~character of property necessary or useful for any of the purposes~~  
17 ~~provided in Section 1(a) hereof~~].

18 (b) To lease, sell, trade, or otherwise dispose of any  
19 property or any interest in property, including real or personal  
20 property, [~~land or other property or rights therein~~] when the same  
21 are no longer needed for carrying on the business of the District  
22 [~~such purposes~~].

23 (c) To appoint a manager and such other officers, agents,  
24 and employees, and to prescribe their duties and fix their  
25 compensation (including an engineer or engineers and legal  
26 counsel).

27 (d) To authorize its officers, employees, or agents to go

1 upon any lands lying within the District for the purpose of making  
2 surveys and examining such lands in connection with any District  
3 plans or projects and for any other lawful purpose within the scope  
4 of its authority.

5 (e) To devise plans and construct works to lessen and  
6 control floods or to reclaim lands in the District; to prevent the  
7 deposit of silt in navigable streams; to remove obstructions,  
8 natural or artificial, from streams and water courses; to regulate  
9 the flow of surface and flood waters; to provide drainage; and to  
10 accomplish any other purpose within the scope of its authority.

11 (f) To borrow money for any of the purposes, consistent with  
12 the Constitution, provided by this Act or by the General Laws (and  
13 without limitation of the generality of the foregoing, to borrow  
14 money and accept grants from the United States of America, the State  
15 of Texas, or [~~from~~] any corporation or agency created or designated  
16 by the United States of America or the State of Texas, and in  
17 connection with any such loan or grant to enter into such agreements  
18 as the United States of America, the State of Texas, or such  
19 corporations or agencies may require), and to make and issue its  
20 notes and [~~negotiable~~] bonds (tax bonds or notes, revenue bonds or  
21 notes, and/or combination tax-revenue bonds or notes) for such  
22 borrowed money in the manner and to the extent provided herein.

23 (g) To cooperate with, or to contract with, any agency or  
24 political subdivision of the state, or any city or town within the  
25 boundaries of the District in relation to surveys, the acquisition  
26 of land or right-of-ways, the construction or maintenance of  
27 projects or parts thereof or the financing of the same in connection

1 with any matter within the scope of this Act.

2 (h) To sue and be sued in its corporate name.

3 (i) To adopt, use, and alter a corporate seal.

4 (j) To make bylaws, rules, and regulations for the  
5 management and regulation of its affairs.

6 (k) To make contracts and execute instruments necessary or  
7 convenient to the exercise of the powers, rights, privileges, and  
8 functions conferred upon it by this Act or by general law.

9 (l) To do any and all other acts or things necessary or  
10 convenient [~~proper~~] to the exercise of all of the powers, rights,  
11 privileges, authority, or functions provided by the Constitution of  
12 Texas, this Act, or other applicable law [~~carry into effect any of~~  
13 ~~the foregoing powers~~].

14 (m) In the event that the District, in the exercise of the  
15 power of eminent domain or power of relocation, or any other power  
16 granted hereunder, makes necessary the relocation, raising,  
17 rerouting or changing the grade of, or altering the construction of  
18 any highway, railroad, electric transmission line, telephone or  
19 telegraph properties and facilities, or pipeline, all such  
20 necessary relocation, raising, rerouting, changing of grade or  
21 alteration of construction shall be accomplished at the sole  
22 expense of the District.

23 (n) In no event shall the power of eminent domain be  
24 exercised by said District beyond the limits of Jackson County.

25 (o) To own, construct, operate, and maintain facilities  
26 relating to:

27 (1) water supply and treatment;

- 1           (2) wastewater treatment and distribution;
- 2           (3) solid waste;
- 3           (4) electric power generation;
- 4           (5) flood monitoring, warning, and control;
- 5           (6) water quality protection, including non-point  
6 source pollution control measures;
- 7           (7) emergency communication support to other  
8 political subdivisions;
- 9           (8) aquatic weed control and development;
- 10          (9) parks and recreation; and
- 11          (10) monitoring and collecting data to support the  
12 facilities listed in Subdivisions (1)-(9) of this subsection.

13          (p) To effectively and efficiently meet current and future  
14 water supply demands inside or outside the boundaries of the  
15 District, the District may acquire, construct, develop, operate,  
16 and maintain desalination projects inside or outside the boundaries  
17 of the District. In relation to the development and operation of  
18 desalination projects, the District may:

- 19           (1) own and operate a facility that is ancillary to a  
20 desalination project, including an electric power generation  
21 facility;
- 22           (2) incur debt and receive funding through grants; and
- 23           (3) form development corporations that may be funded  
24 by the Texas Water Development Board.

25           SECTION 3. Section 3, Chapter 186, Acts of the 50th  
26 Legislature, Regular Session, 1947, is amended to read as follows:

27           Sec. 3. The Board of Directors shall cause to be kept

1 complete and accurate records and accounts conforming to approved  
2 methods of bookkeeping, and shall preserve their minutes,  
3 contracts, records, notices, accounts, receipts, and records of all  
4 kinds in a fireproof vault or safe. A regular office shall be  
5 established and maintained for the conduct of District business  
6 within the District.

7 Each Director shall receive fees of office not to exceed \$100  
8 a day for each day the Director performs the duties of a Director,  
9 or as state law otherwise authorizes, [~~for his services Ten Dollars~~  
10 ~~(\$10.) per day for each day served~~] plus actual traveling expenses,  
11 provided that such compensation and expenses are approved by a vote  
12 of the Board, and provided further, that no Director shall receive  
13 more than \$6,000 [~~Six Hundred Dollars (\$600.)~~] per year or as state  
14 law otherwise authorizes for such fees of office [~~per diem~~  
15 ~~services~~]. Each Director shall file with the General Manager  
16 [~~Secretary~~] a statement showing the amount due him each month or as  
17 soon thereafter as practicable, before a check shall be issued  
18 therefor.

19 No Director, engineer, officer, or employee of the District,  
20 either for himself or as agent for anyone else, shall benefit  
21 directly or indirectly by reason of any sale, purchase, or contract  
22 entered into by the District [~~Board~~]. If any such person shall  
23 directly or indirectly become interested in any such sale,  
24 purchase, or contract, he shall be guilty of a misdemeanor and upon  
25 conviction thereof shall be punished by a fine in any sum of not to  
26 exceed One Thousand Dollars (\$1,000.) or by confinement in the  
27 county jail for not less than six (6) months nor more than one (1)



1 year, or by both such fine and imprisonment.

2 All bonds required to be given by officers and employees of  
3 the District shall be executed by a surety company authorized to do  
4 business in the State of Texas as surety thereon, and the District  
5 shall be authorized to pay the premium on such bonds.

6 SECTION 4. Subsection (a), Section 6, Chapter 186, Acts of  
7 the 50th Legislature, Regular Session, 1947, is amended to read as  
8 follows:

9 Sec. 6. (a) For the purpose of providing funds for any of  
10 the purposes provided by this Act or any other laws relating to  
11 [~~flood control~~] districts created or operating under Section 59 of  
12 Article XVI of the Constitution of Texas, the Board of Directors  
13 shall have the power from time to time to issue negotiable bonds for  
14 and on behalf of the District, which bonds may be secured by any one  
15 of the following methods:

16 (1) Solely by a pledge of and payable from the net  
17 revenues derived from the operation of all or a designated part of  
18 the improvements and facilities of the District then in existence  
19 or to be constructed or acquired, with the duty on the Board of  
20 Directors to charge and collect fees, tolls, and charges, so long as  
21 the bonds are outstanding, sufficient to pay all maintenance and  
22 operation expenses of the improvements and facilities (the income  
23 of which is pledged), the interest on such bonds as it accrues, the  
24 principal of such bonds as it matures, and to make any and all other  
25 payments as may be prescribed in the bond order or resolution; or

26 (2) By a pledge of and payable from an ad valorem tax  
27 upon all taxable property within the District under Section 59 of

1 Article XVI of the Constitution of Texas, with the duty on the Board  
2 of Directors each year while the bonds, or any part of them, are  
3 outstanding to levy, and cause to be assessed and collected, a tax  
4 sufficient to pay the interest on such bonds as it accrues and the  
5 principal of such bonds as it matures; or

6 (3) By a combination of the methods prescribed under  
7 (1) and (2) above, wherein the bonds are supported and secured by an  
8 ad valorem tax, with the duty on the Board of Directors to charge  
9 and collect fees, tolls, and charges, so long as the bonds are  
10 outstanding, so the (in the manner prescribed in the bond order or  
11 resolution) amount of tax to be collected from time to time may be  
12 reduced or abated to the extent that the revenues from the operation  
13 of said improvements and facilities (the income of which is  
14 pledged) are sufficient to meet the requirements for maintenance  
15 and operation of said improvements and facilities and to provide  
16 funds for the bonds as prescribed in said bond order or resolution.

17 "Net revenues" as used herein shall mean the gross revenues  
18 derived from the operation of those improvements and facilities of  
19 the District the income of which is pledged to the payment of the  
20 bonds less the reasonable expense of maintaining and operating said  
21 improvements and facilities, and said maintenance and operation  
22 expenses shall include, among other things, necessary repair,  
23 upkeep, and insurance of said improvements and facilities.

24 In the resolution or order adopted by the Board of Directors  
25 authorizing the issuance of bonds payable in whole or in part from  
26 net revenues, the Board may provide for the flow of funds, the  
27 establishment and maintenance of the interest and sinking fund,

1 reserve fund, and other funds, and may make such additional  
2 covenants with respect to the bonds and the pledged revenues and the  
3 operation, maintenance, and upkeep of those improvements and  
4 facilities (the income of which is pledged), including provision  
5 for the leasing of all or a part of said improvements and facilities  
6 and the use or pledge of moneys derived from leases thereof, as it  
7 may deem appropriate. Said resolution or order may also prohibit  
8 the further issuance of bonds or other obligations payable from the  
9 pledged net revenues, or may reserve the right to issue additional  
10 bonds to be secured by a pledge of and payable from said net  
11 revenues on a parity with, or subordinate to, the lien and pledge in  
12 support of the bonds being issued, subject to such conditions as are  
13 set forth in said resolution or order. Such resolution or order may  
14 contain such other provisions and covenants, as the Board of  
15 Directors shall determine, not prohibited by the Constitution of  
16 Texas or by this Act, and the Board may adopt and cause to be  
17 executed any other proceedings or instruments necessary and/or  
18 convenient in the issuance of said bonds.

19 SECTION 5. Chapter 186, Acts of the 50th Legislature,  
20 Regular Session, 1947, is amended by adding Section 8A to read as  
21 follows:

22 Sec. 8A. The Board of Directors, without an election, may  
23 borrow money on negotiable or nonnegotiable notes of the District  
24 to be paid solely from the revenues of the District derived from the  
25 ownership of all or a designated part of the District's works,  
26 plant, improvements, facilities, equipment, or water rights, after  
27 deduction of the reasonable cost of maintaining and operating the

1 facilities. The District may not pay any part of an obligation from  
2 taxes levied or collected by the District. The Board of Directors  
3 may designate the notes as first lien or subordinate lien notes. An  
4 obligation shall be a charge on the revenues pledged for the payment  
5 of the obligation, not a charge on the property of the District or  
6 on the taxes levied or collected by the District.

7 SECTION 6. Section 9, Chapter 186, Acts of the 50th  
8 Legislature, Regular Session, 1947, is amended to read as follows:

9 Sec. 9. All maintenance tax elections shall be called and  
10 held as is provided in Section 6(b) of this Act relating to  
11 elections for bonds payable in whole or in part from taxes, and the  
12 following shall appear on the ballot in such maintenance tax  
13 elections:

14 "For maintenance tax"; and the contrary thereof.

15 This being a county-wide District, the regular voting or  
16 election precincts established by the Commissioners Court of  
17 Jackson County for county-wide elections shall be the voting or  
18 election precincts for all elections called and held under the  
19 provisions of this Act. Except as modified herein, the General  
20 Election Laws of the State of Texas shall apply to and govern all  
21 elections called and held under the provisions hereof.

22 SECTION 7. Section 10a, Chapter 186, Acts of the 50th  
23 Legislature, Regular Session, 1947, is amended to read as follows:

24 Sec. 10a. The Board of Directors may contract as provided by  
25 Chapter 791, Government Code, [the Interlocal Cooperation Act  
26 (Article 4413(32c), Vernon's Texas Civil Statutes)] with the Board  
27 of Directors of the Jackson County Appraisal District for the

1 performance of duties relating to assessment or collection of taxes  
2 on behalf of the Lavaca-Navidad River Authority. The Board of  
3 Directors may contract with any other political subdivision of this  
4 state having authority to assess or collect taxes in Jackson  
5 County, either now existing or created in the future, for the  
6 assessment or collection of taxes on behalf of the Lavaca-Navidad  
7 River Authority.

8 SECTION 8. Section 12, Chapter 186, Acts of the 50th  
9 Legislature, Regular Session, 1947, is amended to read as follows:

10 Sec. 12. Lavaca-Navidad River Authority [~~Jackson County~~  
11 ~~Flood Control District~~] heretofore created is in all things  
12 validated, and any and all acts relating to the District heretofore  
13 performed or done by said District or its governing body or any  
14 other officials of the State or of Jackson County are in all things  
15 validated.

16 SECTION 9. The following sections are repealed:

17 (1) Section 1(a), Chapter 186, Acts of the 50th  
18 Legislature, Regular Session, 1947, as added by Chapter 417, Acts  
19 of the 61st Legislature, Regular Session, 1969; and

20 (2) Sections 11 and 11a, Chapter 186, Acts of the 50th  
21 Legislature, Regular Session, 1947.

22 SECTION 10. This Act takes effect September 1, 2003.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 1276 as follows:

(1) In SECTION 1 of the bill, in amended Section 1(a), Chapter 186, Acts of the 50th Legislature, Regular Session, 1947 (Senate engrossed version, page 2, line 9), strike "development, generation, distribution," and substitute "financing of and aiding in the development of facilities located on lands owned by the District for the generation, transmission,".

(2) In SECTION 2 of the bill, in proposed Section 2(o), Chapter 186, Acts of the 50th Legislature, Regular Session, 1947 (Senate engrossed version, page 7, line 3), between "generation" and the semicolon, insert ", to the extent authorized by Section 1(a) of this Act".

(3) In SECTION 2 of the bill, in proposed Section 2(p), Chapter 186, Acts of the 50th Legislature, Regular Session, 1947 (Senate engrossed version, page 7, line 21), between "facility" and the semicolon, insert "to the extent authorized by Section 1(a) of this Act".

78R16973 RCJ-F

Hardcastle