

By: Madla

S.B. No. 1494

A BILL TO BE ENTITLED

AN ACT

relating to the powers of Bexar Metropolitan Water District.

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

SECTION 1. Section 2, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. The District is hereby created as a governmental agency, a body politic and corporate, and a municipal corporation, vested with all the authority as such under the Constitution and laws of the State of Texas; and shall have and be empowered to exercise all the rights, privileges, functions, and powers of such governmental agency and body politic and corporate as authorized or implied by the provisions of Article 16, Section 59 of the Constitution and as have been or may be conferred by General Law upon conservation districts and as authorized or implied by the provisions of this Act, for the purpose of controlling, conserving, protecting, preserving, distributing, and utilizing the storm and flood waters of the rivers and streams situated in said District ~~[and the underground waters situated thereunder]~~ and for the purpose of regulating and controlling the disposal of sewage, wastes, and other refuse, and the collection and disposal thereof, to prevent the contamination and pollution of the public waters of the District. It shall have the power to formulate and execute any and all plans deemed essential to the accomplishment of the

1 purposes for which it is created and shall be recognized to have
2 such authority and power of control and regulation over the storm
3 and flood waters of its rivers and streams [~~and its underground~~
4 ~~waters~~] as may be exercised by the State of Texas, subject to the
5 provisions of the Constitution and Section 4 of this Act.

6 SECTION 2. Section 3, Chapter 306, Acts of the 49th
7 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
8 Texas Civil Statutes), is amended to read as follows:

9 Sec. 3. In addition to the powers vested by the Constitution
10 and general laws in such public agency for the greatest practicable
11 measure of the conservation, preservation, and beneficial
12 utilization of its public waters, the power to control and utilize
13 its public waters and to regulate the disposal and the disposal of
14 sewage, waste, and refuse, the District shall have the following
15 general powers:

16 (a) Through every practical and legal means to develop,
17 transport, deliver, distribute, store, and treat water for use
18 within the District, including [~~control and regulate and to~~
19 ~~coordinate the control and regulation of the waters of the~~
20 ~~watershed of the San Antonio River and tributaries in the District~~
21 ~~and~~] the storm and flood [~~and underground~~] waters within [~~of~~] the
22 District, including the power to cooperate with the United States
23 Government or any agency thereof, or any municipality, public,
24 quasi-public or private agency and to contract, negotiate, and
25 enter into agreements with any one or more of such agencies in
26 effecting such purposes;

27 (b) to store, control, and conserve storm and flood waters

1 of its rivers and streams and to prevent the escape of any such
2 waters without first obtaining therefrom a maximum of public
3 service; to prevent devastation of property from overflow and to
4 protect life and property from uncontrolled flood and storm waters;

5 (c) to conserve and distribute waters essential for
6 domestic and other uses by the inhabitants of the District,
7 including necessary water supply for cities and towns situated
8 within the District;

9 (d) to provide for the development of drainage systems to
10 control, regulate, and dispose of all storm and flood waters of the
11 District so as to protect effectively lives and property, and to
12 utilize such waters for each and every purpose for which flood and
13 storm waters when controlled, conserved, or regulated may be
14 utilized as contemplated by the Constitution and the public policy
15 therein declared;

16 (e) to provide by purchase, construction, lease, gift, or in
17 any other manner and to operate any and all facilities deemed by the
18 District essential for preserving the purity of all the surface and
19 underground waters of the District for the protection of the health
20 of its inhabitants, and to formulate plans to make and enforce rules
21 and regulations for the effective disposal of any and all sewage
22 wastes, refuse, or residuum, however accumulated; which otherwise
23 would contaminate, pollute, or render unsafe and insanitary the
24 surface and underground waters of the District and which might
25 threaten or impair the health of its inhabitants or which might
26 adversely affect the health of the inhabitants downstream below the
27 District;

1 (f) to acquire by purchase, construction, lease, gift, or in
2 any other manner (otherwise than by condemnation) and to maintain,
3 use, and operate any and all property of any kind, real, personal,
4 or mixed, or any interest therein within or without the boundaries
5 of the District deemed by its Board of Directors necessary or
6 convenient to the exercise of the powers, rights, privileges, and
7 functions conferred upon it by this Act;

8 (g) to acquire by condemnation any and all property of any
9 kind, real, personal, or mixed, or any interest therein, within or
10 outside of the boundaries of the District, necessary to the
11 exercise of the powers, rights, privileges, and functions conferred
12 by this Act, in the manner provided by General Law relative to
13 condemnation, or at the option of the District, in the manner
14 provided by law with respect to condemnation by agencies organized
15 pursuant to Section 59, Article 16 of the Constitution of the State
16 of Texas; provided that the District shall not have the right or
17 power to so condemn any such property that may be owned by any other
18 political subdivision, city, or town located within the District;

19 (h) to cooperate, contract, and enter into agreements with
20 towns, cities, districts, or political subdivisions located in or
21 outside of the District and with Bexar County, in the construction,
22 purchase, lease, maintenance, improvement, use, and operation of
23 any and all facilities, works, and plants necessary or convenient
24 to the accomplishment of the purposes for which the District was
25 created;

26 (i) to make contracts with any person, private corporation,
27 municipal corporation, political subdivision, or the Board of

1 Trustees thereof, operating water distribution facilities for the
2 benefit of a city or town within the District, under which the
3 District may perform services for such parties or such parties may
4 perform services for the District, or under which either may
5 operate all or any part of the facilities of the other, having due
6 regard for the duties and obligations of such parties in the
7 instrument prescribing their or its duties;

8 (j) to construct, extend, improve, maintain, and
9 reconstruct, to cause to be constructed, extended, improved,
10 maintained, or reconstructed and to use and operate any and all
11 facilities of any kind necessary or convenient to the exercise of
12 the powers, rights, privileges, and functions conferred by this
13 Act;

14 (k) to sue and be sued in its corporate name;

15 (l) to make by-laws for the management and regulation of its
16 affairs conformably to the powers and purposes herein conferred and
17 consistent with the Constitution of this State;

18 (m) to make rules and regulations and to prescribe penalties
19 for the breach of any rule or regulation of the District, which
20 penalties shall not exceed fines of more than Two Hundred Dollars
21 (\$200), or imprisonment for more than thirty (30) days, or may
22 provide both such fine and such imprisonment. The penalties hereby
23 authorized shall be in addition to any other penalties provided by
24 the laws of Texas and may be enforced by complaints filed in the
25 appropriate court of jurisdiction in the county in which the
26 district's principal office is located; provided, however, that no
27 rule or regulation which provides a penalty for the violation

1 thereof shall be in effect, as to enforcement of the penalty, until
2 five days next after the district may have caused a substantive
3 statement of the particular rule or regulation and the penalty for
4 the violation thereof to be published, once a week for two
5 consecutive weeks, in one or more newspapers affording general
6 circulation in the area in which the property of the district is
7 situated; and, the substantive statement so to be published shall
8 be as condensed as is possible to afford an intelligent direction of
9 the mind to the object sought to be accomplished or the act
10 forbidden by the rule or regulation; one notice may embrace any
11 number of regulations; there must be embraced in the notice advice
12 that breach of the particular regulation, or regulations, will
13 subject the violator to the infliction of a penalty and there also
14 shall be included in the notice advice that the full text of the
15 regulation sought to be enforced is on file in the principal office
16 of the District, where the same may be read by any interested
17 person. Five (5) days after the second publication of the notice
18 hereby required, the advertised regulation shall be in effect, and
19 ignorance of any such regulation shall not constitute a defense to a
20 prosecution for the enforcement of a penalty; and, the rules and
21 regulations authorized hereby, after the required publication,
22 shall judicially be known to the courts and shall be considered of a
23 nature like unto that of valid penal ordinances of a city of the
24 State;

25 (n) to adopt, use, and alter a corporate seal;

26 (o) to appoint agents and employees; prescribe their duties
27 and fix their compensation;

1 (p) to make contracts and execute instruments necessary or
2 convenient to the exercise of the powers, rights, privileges, and
3 functions herein conferred;

4 (q) to borrow money for its authorized purposes, to accept
5 grants or loans or allotments from the United States Government or
6 any of its agencies, or others, and in connection with any such
7 grants, loans, or allotments to enter into such agreements as may be
8 required to make them effective, and for the purpose of obtaining
9 funds to issue its negotiable tax bonds and its negotiable revenue
10 bonds in the manner and to the extent hereinafter provided;

11 (r) to operate and maintain with consent of the governing
12 body of any city, town, or political subdivision located in the
13 District any works, plants, or facilities deemed necessary or
14 convenient to the accomplishment of the purposes for which the
15 District is created;

16 (s) to enter into planning agreements with the Texas Water
17 Development Board under Subchapter C, Chapter 16, Water Code, for
18 the purpose of conducting studies necessary to maintain retail
19 water supply services to customers within the boundaries of the
20 District; and

21 (t) to cooperate with and support local fire departments and
22 economic development activities sponsored by local entities within
23 the District that use water and water resources provided, or to be
24 provided, by the District.

25 SECTION 3. Chapter 306, Acts of the 49th Legislature,
26 Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil
27 Statutes), is amended by adding Section 5A to read as follows:

1 Sec. 5A. In addition to the territory described by Section 5
2 of this Act, and in conformity with the court's order dated April
3 22, 1996, in Rios v. Bexar Metropolitan Water District et al., No.
4 SA-96CA-0335, in the United States District Court, Western District
5 of Texas, for purposes of the exercise of the District's current
6 retail water utility services the District's boundaries shall
7 include the territory defined in all of the portions of, or the
8 applicable portions of, the census tracts or property situated
9 within the area described by certificates of convenience and
10 necessity numbers 10675, 12759, and 12760 issued by the Texas
11 Commission on Environmental Quality as they are in effect on the
12 effective date of this section.

13 SECTION 4. Sections 6, 6a, and 20, Chapter 306, Acts of the
14 49th Legislature, Regular Session, 1945 (Article 8280-126,
15 Vernon's Texas Civil Statutes), are repealed.

16 SECTION 5. (a) This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2003.

21 (b) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts
22 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,
23 Vernon's Texas Civil Statutes), does not affect an annexation
24 proceeding initiated before the effective date of this Act. An
25 annexation proceeding initiated before the effective date of this
26 Act is governed by the law in effect immediately before the
27 effective date of this Act, and the former law is continued in

1 effect for that purpose.

2 (c) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts
3 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,
4 Vernon's Texas Civil Statutes), does not affect a pending
5 application for a certificate of convenience and necessity that has
6 been referred by the Texas Commission on Environmental Quality to
7 the State Office of Administrative Hearings before the effective
8 date of this Act. An application referred before the effective date
9 of this Act is governed by the law in effect immediately before the
10 effective date of this Act, and the former law is continued in
11 effect for that purpose.