

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.

