

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 including
18 ~~[control and regulate and to coordinate the control and regulation~~
19 ~~of the waters of the watershed of the San Antonio River and~~
20 ~~tributaries in the District and]~~ the storm and flood [~~and~~
21 ~~underground~~] waters within or without [~~of~~] the District, including
22 the power to cooperate with the United States Government or any
23 agency thereof, or any municipality, public, quasi-public or
24 private agency and to contract, negotiate, and enter into
25 agreements with any one or more of such agencies in effecting such
26 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 cooperate, contract, and enter into agreements with
17 towns, cities, districts, or political subdivisions located in or
18 outside of the District to plan for the development of the regional
19 water resources under Subchapter C, Chapter 16, Water Code; and to
20 cooperate for the safe and economical collection, transportation,
21 treatment, and disposal of waste in order to prevent and control
22 pollution of water under Subchapter B, Chapter 30, Texas Water
23 Code; and to cooperate and support local Fire departments and
24 economic development activities sponsored by local entities
25 requiring use of water, wastewater, and water resources provided by
26 or to be provided by the District; and

27 (t) to enforce the federal Clean Water Act (33 U.S.C.

1 Section 1251 et seq.), as amended, and federal Safe Drinking Water
2 Act (42 U.S.C. Section 300f et seq.), as amended, in accordance with
3 State and federal law, and to, within or without the District,
4 prohibit the pollution or degradation of a stream, recharge
5 feature, drain, recharge area or tributary that may constitute or
6 recharge the source water supply of the District by means of septic
7 system or other pollutant-discharging mechanism.

8 SECTION 3. Sections 6 and 6a, Chapter 306, Acts of the 49th
9 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
10 Texas Civil Statutes), are superseded and deleted.

11 SECTION 4. Section 5, Chapter 306, Acts of the 49th
12 Legislature, Regular Session, 1945 (Article 8280-126 Vernon's
13 Texas Civil Statutes); is amended to read as follows:

14 SECTION 5. In conformity with the Court's Judgment dated
15 April 22, 1996 in Cause No. SA96CA0335, Rios V. Bexar Metropolitan
16 Water District, (U.S. District Court - W.D. Texas) and as provided
17 by Chapter 13 of the Texas Water Code, orders of the Texas
18 Commission on Environmental Quality providing for the granting and
19 issuance of Certificates of Convenience and Necessity pursuant to
20 Section 13.242, Texas Water Code, existing at the time of passage of
21 this act and established in the future, shall define the boundaries
22 of the District, and the District's present boundaries shall
23 include all or applicable portions of census tracts or property
24 situated within any area certificated by the Texas Commission on
25 Environmental Quality to the District on the date of passage of this
26 Act.

27 SECTION 6. Sec. 20 This section is repealed.

1 SECTION 7. If passed by more than two-thirds of vote of both
2 houses, this Act shall be effective immediately. Otherwise, this
3 Act takes effect September 1, 2003. The repeal of Sections 6, 6a
4 and 20, Chapter 306, Acts of the 49th Legislature, Regular Session,
5 1945 (Article 8280-126, Vernon's Texas Civil Statutes), does not
6 affect any annexation proceeding initiated before the effective
7 date of this Act, or any pending application for Certificate of
8 Convenience and Necessity, provided that such application has been
9 referred by the Texas Commission on Environmental Quality to the
10 State Office of Administrative Hearings before the effective date
11 of this Act.