

1-1 By: Madla S.B. No. 1494
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 2, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; May 2, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1494 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the powers of Bexar Metropolitan Water District.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2, Chapter 306, Acts of the 49th
1-13 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
1-14 Texas Civil Statutes), is amended to read as follows:

1-15 Sec. 2. The District is hereby created as a governmental
1-16 agency, a body politic and corporate, and a municipal corporation,
1-17 vested with all the authority as such under the Constitution and
1-18 laws of the State of Texas; and shall have and be empowered to
1-19 exercise all the rights, privileges, functions, and powers of such
1-20 governmental agency and body politic and corporate as authorized or
1-21 implied by the provisions of Article 16, Section 59 of the
1-22 Constitution and as have been or may be conferred by General Law
1-23 upon conservation districts and as authorized or implied by the
1-24 provisions of this Act, for the purpose of controlling, conserving,
1-25 protecting, preserving, distributing, and utilizing the storm and
1-26 flood waters of the rivers and streams situated in said District
1-27 [~~and the underground waters situated thereunder~~] and for the
1-28 purpose of regulating and controlling the disposal of sewage,
1-29 wastes, and other refuse, and the collection and disposal thereof,
1-30 to prevent the contamination and pollution of the public waters of
1-31 the District. It shall have the power to formulate and execute any
1-32 and all plans deemed essential to the accomplishment of the
1-33 purposes for which it is created and shall be recognized to have
1-34 such authority and power of control and regulation over the storm
1-35 and flood waters of its rivers and streams [~~and its underground
1-36 waters~~] as may be exercised by the State of Texas, subject to the
1-37 provisions of the Constitution and Section 4 of this Act.

1-38 SECTION 2. Section 3, Chapter 306, Acts of the 49th
1-39 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
1-40 Texas Civil Statutes), is amended to read as follows:

1-41 Sec. 3. In addition to the powers vested by the Constitution
1-42 and general laws in such public agency for the greatest practicable
1-43 measure of the conservation, preservation, and beneficial
1-44 utilization of its public waters, the power to control and utilize
1-45 its public waters and to regulate the disposal and the disposal of
1-46 sewage, waste, and refuse, the District shall have the following
1-47 general powers:

1-48 (a) Through every practical and legal means to develop,
1-49 transport, deliver, distribute, store, and treat water for use
1-50 within the District, including [~~control and regulate and to~~
1-51 ~~coordinate the control and regulation of the waters of the~~
1-52 ~~watershed of the San Antonio River and tributaries in the District~~
1-53 ~~and~~] the storm and flood [~~and underground~~] waters within [~~of~~] the
1-54 District, including the power to cooperate with the United States
1-55 Government or any agency thereof, or any municipality, public,
1-56 quasi-public or private agency and to contract, negotiate, and
1-57 enter into agreements with any one or more of such agencies in
1-58 effecting such purposes;

1-59 (b) to store, control, and conserve storm and flood waters
1-60 of its rivers and streams and to prevent the escape of any such
1-61 waters without first obtaining therefrom a maximum of public
1-62 service; to prevent devastation of property from overflow and to
1-63 protect life and property from uncontrolled flood and storm waters;

2-1 (c) to conserve and distribute waters essential for
2-2 domestic and other uses by the inhabitants of the District,
2-3 including necessary water supply for cities and towns situated
2-4 within the District;

2-5 (d) to provide for the development of drainage systems to
2-6 control, regulate, and dispose of all storm and flood waters of the
2-7 District so as to protect effectively lives and property, and to
2-8 utilize such waters for each and every purpose for which flood and
2-9 storm waters when controlled, conserved, or regulated may be
2-10 utilized as contemplated by the Constitution and the public policy
2-11 therein declared;

2-12 (e) to provide by purchase, construction, lease, gift, or in
2-13 any other manner and to operate any and all facilities deemed by the
2-14 District essential for preserving the purity of all the surface and
2-15 underground waters of the District for the protection of the health
2-16 of its inhabitants, and to formulate plans to make and enforce rules
2-17 and regulations for the effective disposal of any and all sewage
2-18 wastes, refuse, or residuum, however accumulated; which otherwise
2-19 would contaminate, pollute, or render unsafe and insanitary the
2-20 surface and underground waters of the District and which might
2-21 threaten or impair the health of its inhabitants or which might
2-22 adversely affect the health of the inhabitants downstream below the
2-23 District;

2-24 (f) to acquire by purchase, construction, lease, gift, or in
2-25 any other manner (otherwise than by condemnation) and to maintain,
2-26 use, and operate any and all property of any kind, real, personal,
2-27 or mixed, or any interest therein within or without the boundaries
2-28 of the District deemed by its Board of Directors necessary or
2-29 convenient to the exercise of the powers, rights, privileges, and
2-30 functions conferred upon it by this Act;

2-31 (g) to acquire by condemnation any and all property of any
2-32 kind, real, personal, or mixed, or any interest therein, within or
2-33 outside of the boundaries of the District, necessary to the
2-34 exercise of the powers, rights, privileges, and functions conferred
2-35 by this Act, in the manner provided by General Law relative to
2-36 condemnation, or at the option of the District, in the manner
2-37 provided by law with respect to condemnation by agencies organized
2-38 pursuant to Section 59, Article 16 of the Constitution of the State
2-39 of Texas; provided that the District shall not have the right or
2-40 power to so condemn any such property that may be owned by any other
2-41 political subdivision, city, or town located within the District;

2-42 (h) to cooperate, contract, and enter into agreements with
2-43 towns, cities, districts, or political subdivisions located in or
2-44 outside of the District and with Bexar County, in the construction,
2-45 purchase, lease, maintenance, improvement, use, and operation of
2-46 any and all facilities, works, and plants necessary or convenient
2-47 to the accomplishment of the purposes for which the District was
2-48 created;

2-49 (i) to make contracts with any person, private corporation,
2-50 municipal corporation, political subdivision, or the Board of
2-51 Trustees thereof, operating water distribution facilities for the
2-52 benefit of a city or town within the District, under which the
2-53 District may perform services for such parties or such parties may
2-54 perform services for the District, or under which either may
2-55 operate all or any part of the facilities of the other, having due
2-56 regard for the duties and obligations of such parties in the
2-57 instrument prescribing their or its duties;

2-58 (j) to construct, extend, improve, maintain, and
2-59 reconstruct, to cause to be constructed, extended, improved,
2-60 maintained, or reconstructed and to use and operate any and all
2-61 facilities of any kind necessary or convenient to the exercise of
2-62 the powers, rights, privileges, and functions conferred by this
2-63 Act;

2-64 (k) to sue and be sued in its corporate name;

2-65 (l) to make by-laws for the management and regulation of its
2-66 affairs conformably to the powers and purposes herein conferred and
2-67 consistent with the Constitution of this State;

2-68 (m) to make rules and regulations and to prescribe penalties
2-69 for the breach of any rule or regulation of the District, which

3-1 penalties shall not exceed fines of more than Two Hundred Dollars
 3-2 (\$200), or imprisonment for more than thirty (30) days, or may
 3-3 provide both such fine and such imprisonment. The penalties hereby
 3-4 authorized shall be in addition to any other penalties provided by
 3-5 the laws of Texas and may be enforced by complaints filed in the
 3-6 appropriate court of jurisdiction in the county in which the
 3-7 district's principal office is located; provided, however, that no
 3-8 rule or regulation which provides a penalty for the violation
 3-9 thereof shall be in effect, as to enforcement of the penalty, until
 3-10 five days next after the district may have caused a substantive
 3-11 statement of the particular rule or regulation and the penalty for
 3-12 the violation thereof to be published, once a week for two
 3-13 consecutive weeks, in one or more newspapers affording general
 3-14 circulation in the area in which the property of the district is
 3-15 situated; and, the substantive statement so to be published shall
 3-16 be as condensed as is possible to afford an intelligent direction of
 3-17 the mind to the object sought to be accomplished or the act
 3-18 forbidden by the rule or regulation; one notice may embrace any
 3-19 number of regulations; there must be embraced in the notice advice
 3-20 that breach of the particular regulation, or regulations, will
 3-21 subject the violator to the infliction of a penalty and there also
 3-22 shall be included in the notice advice that the full text of the
 3-23 regulation sought to be enforced is on file in the principal office
 3-24 of the District, where the same may be read by any interested
 3-25 person. Five (5) days after the second publication of the notice
 3-26 hereby required, the advertised regulation shall be in effect, and
 3-27 ignorance of any such regulation shall not constitute a defense to a
 3-28 prosecution for the enforcement of a penalty; and, the rules and
 3-29 regulations authorized hereby, after the required publication,
 3-30 shall judicially be known to the courts and shall be considered of a
 3-31 nature like unto that of valid penal ordinances of a city of the
 3-32 State;

3-33 (n) to adopt, use, and alter a corporate seal;

3-34 (o) to appoint agents and employees; prescribe their duties
 3-35 and fix their compensation;

3-36 (p) to make contracts and execute instruments necessary or
 3-37 convenient to the exercise of the powers, rights, privileges, and
 3-38 functions herein conferred;

3-39 (q) to borrow money for its authorized purposes, to accept
 3-40 grants or loans or allotments from the United States Government or
 3-41 any of its agencies, or others, and in connection with any such
 3-42 grants, loans, or allotments to enter into such agreements as may be
 3-43 required to make them effective, and for the purpose of obtaining
 3-44 funds to issue its negotiable tax bonds and its negotiable revenue
 3-45 bonds in the manner and to the extent hereinafter provided;

3-46 (r) to operate and maintain with consent of the governing
 3-47 body of any city, town, or political subdivision located in the
 3-48 District any works, plants, or facilities deemed necessary or
 3-49 convenient to the accomplishment of the purposes for which the
 3-50 District is created;

3-51 (s) to enter into planning agreements with the Texas Water
 3-52 Development Board under Subchapter C, Chapter 16, Water Code, for
 3-53 the purpose of conducting studies necessary to maintain retail
 3-54 water supply services to customers within the boundaries of the
 3-55 District; and

3-56 (t) to cooperate with and support local fire departments and
 3-57 economic development activities sponsored by local entities within
 3-58 the District that use water and water resources provided, or to be
 3-59 provided, by the District.

3-60 SECTION 3. Chapter 306, Acts of the 49th Legislature,
 3-61 Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil
 3-62 Statutes), is amended by adding Section 5A to read as follows:

3-63 Sec. 5A. In addition to the territory described by Section 5
 3-64 of this Act, and in conformity with the court's order dated April
 3-65 22, 1996, in Rios v. Bexar Metropolitan Water District et al., No.
 3-66 SA-96CA-0335, in the United States District Court, Western District
 3-67 of Texas, for purposes of the exercise of the District's current
 3-68 retail water utility services the District's boundaries shall
 3-69 include the territory defined in all of the portions of, or the

4-1 applicable portions of, the census tracts or property situated
4-2 within the area described by certificates of convenience and
4-3 necessity numbers 10675, 12759, and 12760 issued by the Texas
4-4 Commission on Environmental Quality as they are in effect on the
4-5 effective date of this section.

4-6 SECTION 4. Sections 6, 6a, and 20, Chapter 306, Acts of the
4-7 49th Legislature, Regular Session, 1945 (Article 8280-126,
4-8 Vernon's Texas Civil Statutes), are repealed.

4-9 SECTION 5. (a) This Act takes effect immediately if it
4-10 receives a vote of two-thirds of all the members elected to each
4-11 house, as provided by Section 39, Article III, Texas Constitution.
4-12 If this Act does not receive the vote necessary for immediate
4-13 effect, this Act takes effect September 1, 2003.

4-14 (b) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts
4-15 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,
4-16 Vernon's Texas Civil Statutes), does not affect an annexation
4-17 proceeding initiated before the effective date of this Act. An
4-18 annexation proceeding initiated before the effective date of this
4-19 Act is governed by the law in effect immediately before the
4-20 effective date of this Act, and the former law is continued in
4-21 effect for that purpose.

4-22 (c) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts
4-23 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,
4-24 Vernon's Texas Civil Statutes), does not affect a pending
4-25 application for a certificate of convenience and necessity that has
4-26 been referred by the Texas Commission on Environmental Quality to
4-27 the State Office of Administrative Hearings before the effective
4-28 date of this Act. An application referred before the effective date
4-29 of this Act is governed by the law in effect immediately before the
4-30 effective date of this Act, and the former law is continued in
4-31 effect for that purpose.

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