

By: Smith of Harris

H.B. No. 2267

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the powers of the Coastal Water Authority; providing  
3 the authority to impose a tax; affecting the authority to issue  
4 bonds.

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

6 SECTION 1. Section 3, Chapter 601, Acts of the 69th  
7 Legislature, Regular Session, 1967, is amended to read as follows:

8 Sec. 3. The Authority shall have and exercise and is hereby  
9 vested with all of the rights, powers and privileges, authorities  
10 and functions conferred and imposed by the general laws of this  
11 state now in force or hereafter enacted applicable to water control  
12 and improvement districts and municipal utility districts created  
13 under authority of Section 59 of Article XVI, Constitution of  
14 Texas, but to the extent that the provisions of such general laws  
15 may be in conflict or inconsistent with the provisions of this Act,  
16 the provisions of this Act shall prevail. All such general laws are  
17 hereby adopted and incorporated by reference with the same effect  
18 as if incorporated in full in this Act. Without in any way limiting  
19 the generalization of the foregoing, it is expressly provided that  
20 the Authority shall have and exercise, and is hereby vested with,  
21 all of the rights, powers and privileges, authorities and functions  
22 conferred by Chapters 51 and 54, Title 4, Water Code, together with  
23 all amendments thereof and additions thereto. The Authority shall  
24 have the power to make, construct, or otherwise acquire

1 improvements either within or without the boundaries thereof  
2 necessary to carry out the powers and authority granted by this Act  
3 and said general laws. Not by way of limitation, the Authority  
4 shall be authorized and empowered to conserve, store, transport,  
5 treat and purify, distribute, sell and deliver water, whether  
6 ~~[both]~~ surface, ~~[and]~~ underground, desalinated, or reclaimed, to  
7 persons, corporations, both public and private, political  
8 subdivisions of the state and others, and may purchase, construct  
9 or lease all property, works and facilities, both within and  
10 without the Authority, necessary for such purposes. The Authority  
11 is expressly authorized to acquire water supplies from sources both  
12 within and without the boundaries of the Authority and to sell,  
13 transport and deliver water to customers situated within and  
14 without the Authority and to acquire all properties and facilities  
15 necessary for such purposes, and for any and all of such purposes  
16 may enter into contracts with persons, with municipal, public and  
17 private corporations, including the City of Houston, and any  
18 political subdivision of the state for such periods of time, not  
19 exceeding forty (40) years, and on such terms and conditions as its  
20 Board of Directors may deem desirable, fair and advantageous and to  
21 which the parties may agree; provided, that such contracts may  
22 provide that they shall continue in effect until bonds issued by the  
23 Authority to finance the cost of the Authority's improvements,  
24 ~~[water system]~~ facilities, and other properties, and refunding  
25 bonds issued in lieu thereof, are paid. In addition, the Authority  
26 shall have the power to contract with others to transport their  
27 water and the power to act jointly with others in the performance of

1 all functions and purposes of the Authority. Provided that the  
2 Authority has no existing contractual obligation to any person,  
3 corporation or political subdivision to use a particular canal,  
4 lateral or ditch to transport or deliver water, the Authority is  
5 expressly authorized to abandon, sell, release or deconstruct that  
6 canal, ditch or lateral if any of the following conditions apply:

7 (i) the Authority has not used the canal, ditch or lateral to  
8 transport or deliver water to persons, corporations or political  
9 subdivisions of the state for a period of five (5) years; (ii)

10 there are intervening gaps between the canal, ditch or lateral the  
11 Authority wishes to abandon, sell, release or deconstruct and the  
12 Authority's primary canal serving that canal, lateral or ditch; or

13 (iii) an adjoining landowner has requested in writing that the  
14 Authority abandon, sell, release or deconstruct the canal, ditch or  
15 lateral and no other adjoining landowner has objected within thirty  
16 (30) days after receiving notice from the Authority of its intent to  
17 abandon, sell, release or deconstruct the canal, ditch or lateral.

18 Nothing herein contained shall preclude the Authority from  
19 acquiring water rights under any law or permits heretofore or  
20 hereafter issued, provided acquisition of the same is approved by  
21 order or subsequent permit from the Texas [~~Natural Resource~~  
22 ~~Conservation~~] Commission on Environmental Quality.

23 SECTION 2. Chapter 601, Acts of the 69th Legislature,  
24 Regular Session, 1967, is amended by adding Sections 3A, 3B, 3C, and  
25 3D to read as follows:

26 Sec. 3A. The Authority may develop, generate, transmit, or  
27 distribute power and electric energy by any means, including wind

1 turbines and hydroelectric facilities.

2 Sec. 3B. (a) The Authority is a local government for  
3 purposes of Chapter 431, Transportation Code.

4 (b) The Authority may create a nonprofit corporation in the  
5 manner provided by Chapter 431, Transportation Code, to aid and act  
6 on behalf of the Authority in implementing an Authority project. A  
7 corporation created under this section has all the powers of and  
8 receives the same tax exemptions as a local government corporation  
9 created and operating under Chapter 431, Transportation Code.

10 (c) A corporation created under this section is governed in  
11 the same manner as a local government corporation created by a  
12 municipality or county, except that the board of the Authority  
13 shall appoint the board of the corporation. The board of the  
14 corporation serves at the will of the board of the Authority.

15 (d) The Authority has complete governmental and supervisory  
16 control of a corporation created under this section.

17 Sec. 3C. The Authority may use the bed and banks of the  
18 navigable and nonnavigable bayous, rivers, and streams of this  
19 state to transport and convey water. The Authority may construct  
20 and install improvements and facilities in the bayous, rivers, and  
21 streams if:

22 (1) the construction does not interfere with rights of  
23 private property owners; and

24 (2) the Authority receives any required state or  
25 federal permits.

26 Sec. 3D. The Authority may issue unrated bond anticipation  
27 notes to finance the cost of an Authority project without obtaining

1 ratings for the notes. The notes are obligations as defined by  
2 Section 1371.001, Government Code, and may be issued and secured as  
3 provided by Chapter 1371, Government Code.

4 SECTION 3. Section 4, Chapter 601, Acts of the 69th  
5 Legislature, Regular Session, 1967, is amended by amending  
6 Subsection (a) and adding Subsection (d) to read as follows:

7 (a) Except as provided by Subsection (d) of this section,  
8 the [~~The~~] Authority shall have no power or authority to levy and  
9 collect taxes on any property, real, personal or mixed, nor shall  
10 the Authority have power and authority to issue bonds or create  
11 indebtedness which would in any way be payable from ad valorem taxes  
12 levied upon property within the Authority. The Authority shall  
13 have no power or authority to limit, regulate or control the  
14 pumping, withdrawal or use of subsurface ground water by any  
15 person, firm or corporation, nor shall the Authority be authorized  
16 to construct, acquire, own or operate facilities for the navigation  
17 of public waters except as the Authority may be a lessor of such  
18 facilities.

19 The enactment of this law shall not have the effect of  
20 preventing the organization of conservation districts or of  
21 preventing boundary changes of such districts within the boundaries  
22 of the Authority as authorized in Article XVI, Section 59 and  
23 Article III, Section 52 of the Constitution of Texas.

24 (d) The Authority may finance its parks and recreational  
25 facilities in the manner provided by Section 49.4645, Water Code.

26 SECTION 4. (a) All acts and proceedings of the Coastal  
27 Water Authority or the board of directors of the Coastal Water

1 Authority taken before the effective date of this Act are validated  
2 and confirmed in all respects as if the actions had been done as  
3 authorized by law.

4 (b) A governmental act or proceeding of the authority  
5 occurring after an act or proceeding validated by this Act may not  
6 be held invalid on the ground that the prior act or proceeding, in  
7 the absence of this Act, was invalid.

8 (c) This section does not apply to any matter that on the  
9 effective date of this Act:

10 (1) is involved in litigation if the litigation  
11 ultimately results in the matter being held invalid by a final  
12 judgment of a court of competent jurisdiction; or

13 (2) has been held invalid by a final judgment of a  
14 court of competent jurisdiction.

15 SECTION 5. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2005.