

1-1 By: Smith of Harris (Senate Sponsor - Ellis) H.B. No. 2267
1-2 (In the Senate - Received from the House April 25, 2005;
1-3 April 26, 2005, read first time and referred to Committee on Business
1-4 and Commerce; May 20, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 20, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2267 By: Fraser

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

1-10 relating to the powers of the Coastal Water Authority; providing
1-11 the authority to impose a tax; affecting the authority to issue
1-12 bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 3, Chapter 601, Acts of the 60th
1-15 Legislature, Regular Session, 1967, is amended to read as follows:

1-16 Sec. 3. The Authority shall have and exercise and is hereby
1-17 vested with all of the rights, powers and privileges, authorities
1-18 and functions conferred and imposed by the general laws of this
1-19 state now in force or hereafter enacted applicable to water control
1-20 and improvement districts and municipal utility districts created
1-21 under authority of Section 59 of Article XVI, Constitution of
1-22 Texas, but to the extent that the provisions of such general laws
1-23 may be in conflict or inconsistent with the provisions of this Act,
1-24 the provisions of this Act shall prevail. All such general laws are
1-25 hereby adopted and incorporated by reference with the same effect
1-26 as if incorporated in full in this Act. Without in any way limiting
1-27 the generalization of the foregoing, it is expressly provided that
1-28 the Authority shall have and exercise, and is hereby vested with,
1-29 all of the rights, powers and privileges, authorities and functions
1-30 conferred by Chapters 51 and 54, Title 4, Water Code, together with
1-31 all amendments thereof and additions thereto. The Authority shall
1-32 have the power to make, construct, or otherwise acquire
1-33 improvements either within or without the boundaries thereof
1-34 necessary to carry out the powers and authority granted by this Act
1-35 and said general laws. Not by way of limitation, the Authority
1-36 shall be authorized and empowered to conserve, store, transport,
1-37 treat and purify, distribute, sell and deliver water, whether
1-38 [both] surface, [and] underground, desalinated, or reclaimed, to
1-39 persons, corporations, both public and private, political
1-40 subdivisions of the state and others, and may purchase, construct
1-41 or lease all property, works and facilities, both within and
1-42 without the Authority, necessary for such purposes. The Authority
1-43 is expressly authorized to acquire water supplies from sources both
1-44 within and without the boundaries of the Authority and to sell,
1-45 transport and deliver water to customers situated within and
1-46 without the Authority and to acquire all properties and facilities
1-47 necessary for such purposes, and for any and all of such purposes
1-48 may enter into contracts with persons, with municipal, public and
1-49 private corporations, including the City of Houston, and any
1-50 political subdivision of the state for such periods of time, not
1-51 exceeding forty (40) years, and on such terms and conditions as its
1-52 Board of Directors may deem desirable, fair and advantageous and to
1-53 which the parties may agree; provided, that such contracts may
1-54 provide that they shall continue in effect until bonds issued by the
1-55 Authority to finance the cost of the Authority's improvements,
1-56 [water system] facilities, and other properties, and refunding
1-57 bonds issued in lieu thereof, are paid. In addition, the Authority
1-58 shall have the power to contract with others to transport their
1-59 water and the power to act jointly with others in the performance of
1-60 all functions and purposes of the Authority. Provided that the
1-61 Authority has no existing contractual obligation to any person,
1-62 corporation or political subdivision to use a particular canal,
1-63 lateral or ditch to transport or deliver water, the Authority is

2-1 expressly authorized to abandon, sell, release or deconstruct that
 2-2 canal, ditch or lateral if any of the following conditions apply:
 2-3 (i) the Authority has not used the canal, ditch or lateral to
 2-4 transport or deliver water to persons, corporations or political
 2-5 subdivisions of the state for a period of five (5) years; (ii)
 2-6 there are intervening gaps between the canal, ditch or lateral the
 2-7 Authority wishes to abandon, sell, release or deconstruct and the
 2-8 Authority's primary canal serving that canal, lateral or ditch; or
 2-9 (iii) an adjoining landowner has requested in writing that the
 2-10 Authority abandon, sell, release or deconstruct the canal, ditch or
 2-11 lateral and no other adjoining landowner has objected within thirty
 2-12 (30) days after receiving notice from the Authority of its intent to
 2-13 abandon, sell, release or deconstruct the canal, ditch or lateral.
 2-14 Nothing herein contained shall preclude the Authority from
 2-15 acquiring water rights under any law or permits heretofore or
 2-16 hereafter issued, provided acquisition of the same is approved by
 2-17 order or subsequent permit from the Texas [~~Natural Resource~~
 2-18 ~~Conservation~~] Commission on Environmental Quality. The Authority
 2-19 must secure the approval of the mayor and the city council of the
 2-20 City of Houston, Texas, before the Authority acquires any water
 2-21 rights.

2-22 SECTION 2. Chapter 601, Acts of the 60th Legislature,
 2-23 Regular Session, 1967, is amended by adding Sections 3A, 3B, 3C, and
 2-24 3D to read as follows:

2-25 Sec. 3A. The Authority may develop and generate electric
 2-26 energy for use by the Authority or the City of Houston by wind
 2-27 turbines or hydroelectric facilities.

2-28 Sec. 3B. (a) The Authority is a local government for
 2-29 purposes of Chapter 431, Transportation Code.

2-30 (b) The Authority may create a nonprofit corporation in the
 2-31 manner provided by Chapter 431, Transportation Code, to aid and act
 2-32 on behalf of the Authority in implementing an Authority project. A
 2-33 corporation created under this section has all the powers of and
 2-34 receives the same tax exemptions as a local government corporation
 2-35 created and operating under Chapter 431, Transportation Code.

2-36 (c) A corporation created under this section is governed in
 2-37 the same manner as a local government corporation created by a
 2-38 municipality or county, except that the board of the Authority
 2-39 shall appoint the board of the corporation. The board of the
 2-40 corporation serves at the will of the board of the Authority.

2-41 (d) The Authority has complete governmental and supervisory
 2-42 control of a corporation created under this section.

2-43 (e) A local government corporation created by the Authority
 2-44 may not exercise the powers of a municipality or county and may only
 2-45 become involved in projects which the Authority can perform. A
 2-46 local government corporation created by the Authority may not levy
 2-47 ad valorem taxes or acquire, construct or operate parks or
 2-48 recreational facilities.

2-49 Sec. 3C. If the Authority secures a bed and banks permit
 2-50 from the Texas Commission on Environmental Quality, the Authority
 2-51 may use the bed and banks of the navigable and nonnavigable bayous,
 2-52 rivers, and streams of this state to transport and convey water.
 2-53 The Authority may construct and install improvements and facilities
 2-54 in the bayous, rivers, and streams if:

2-55 (1) the construction does not interfere with rights of
 2-56 private property owners; and

2-57 (2) the Authority receives any required state or
 2-58 federal permits.

2-59 Sec. 3D. The Authority may issue unrated bond anticipation
 2-60 notes to finance the cost of an Authority project without obtaining
 2-61 ratings for the notes. The notes are obligations as defined by
 2-62 Section 1371.001, Government Code, and may be issued and secured as
 2-63 provided by Chapter 1371, Government Code.

2-64 SECTION 3. Section 4, Chapter 601, Acts of the 60th
 2-65 Legislature, Regular Session, 1967, is amended by amending
 2-66 Subsection (a) and adding Subsection (d) to read as follows:

2-67 (a) Except as provided by Subsection (d) of this section,
 2-68 the [~~The~~] Authority shall have no power or authority to levy and
 2-69 collect taxes on any property, real, personal or mixed, nor shall

3-1 the Authority have power and authority to issue bonds or create
3-2 indebtedness which would in any way be payable from ad valorem taxes
3-3 levied upon property within the Authority. The Authority shall
3-4 have no power or authority to limit, regulate or control the
3-5 pumping, withdrawal or use of subsurface ground water by any
3-6 person, firm or corporation, nor shall the Authority be authorized
3-7 to construct, acquire, own or operate facilities for the navigation
3-8 of public waters except as the Authority may be a lessor of such
3-9 facilities.

3-10 The enactment of this law shall not have the effect of
3-11 preventing the organization of conservation districts or of
3-12 preventing boundary changes of such districts within the boundaries
3-13 of the Authority as authorized in Article XVI, Section 59 and
3-14 Article III, Section 52 of the Constitution of Texas.

3-15 (d) The Authority may incur indebtedness as provided in
3-16 Article III, Section 52, Texas Constitution, for the purpose of
3-17 improvement of rivers, creeks and streams to prevent overflows or
3-18 in aid of such purpose. Any ad valorem taxes or bonds or other
3-19 indebtedness for this purpose must be approved by two-thirds
3-20 majority of the voting qualified voters of the Authority.

3-21 SECTION 4. (a) All acts and proceedings of the Coastal
3-22 Water Authority or the board of directors of the Coastal Water
3-23 Authority taken before the effective date of this Act are validated
3-24 and confirmed in all respects as if the actions had been done as
3-25 authorized by law.

3-26 (b) A governmental act or proceeding of the authority
3-27 occurring after an act or proceeding validated by this Act may not
3-28 be held invalid on the ground that the prior act or proceeding, in
3-29 the absence of this Act, was invalid.

3-30 (c) This section does not apply to any matter that on the
3-31 effective date of this Act:

3-32 (1) is involved in litigation if the litigation
3-33 ultimately results in the matter being held invalid by a final
3-34 judgment of a court of competent jurisdiction; or

3-35 (2) has been held invalid by a final judgment of a
3-36 court of competent jurisdiction.

3-37 SECTION 5. This Act takes effect immediately if it receives
3-38 a vote of two-thirds of all the members elected to each house, as
3-39 provided by Section 39, Article III, Texas Constitution. If this
3-40 Act does not receive the vote necessary for immediate effect, this
3-41 Act takes effect September 1, 2005.

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