

By: Turner

H.B. No. 3181

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation, administration, powers, duties,
3 operation, and financing of the Central Harris County Regional
4 Water Authority; granting the power of eminent domain; granting the
5 authority to issue bonds or notes; providing a civil penalty.

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

7 ARTICLE 1. GENERAL PROVISIONS

8 SECTION 1.01. CREATION.

9 (a) A regional water authority, to be known as the Central
10 Harris County Regional Water Authority, is created in Harris
11 County. The authority is a political subdivision of this state, a
12 governmental agency, and a body politic and corporate.

13 (b) The authority is created under and is essential to
14 accomplish the purposes of Section 59, Article XVI, Texas
15 Constitution, including the acquisition and provision of surface
16 water and groundwater for residential, commercial, industrial,
17 agricultural, and other uses, the reduction of groundwater
18 withdrawals, the conservation, preservation, protection, recharge,
19 and prevention of waste of groundwater, and of groundwater
20 reservoirs or their subdivisions, the control of subsidence caused
21 by withdrawal of water from those groundwater reservoirs or their
22 subdivisions, and other public purposes stated in this Act.

23 (c) The authority is created without the necessity of
24 holding a confirmation election.

SECTION 1.02. DEFINITIONS. In this Act:

(1) "Authority" means the Central Harris County Regional Water Authority.

(2) "Board" means the board of directors of the authority.

(3) "Commission" means the Texas Commission on Environmental Quality, or its successor.

(4) "Director" means a member of the board.

(5) "District" means any district created under Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of the manner of creation, other than:

(A) a navigation district or port authority; or

(B) a district governed by Chapter 36, Water Code.

(6) "Groundwater reduction plan" means a plan adopted or implemented to supply water, reduce reliance on groundwater, regulate groundwater pumping and usage, or require and allocate water usage among persons in order to comply with or exceed requirements imposed by the subsidence district, including any applicable groundwater reduction requirements.

(7) "Local government" means a municipality, county, district, or other political subdivision of this state or a combination of two or more of those entities.

(8) "Member district" means Harris County Municipal Utility District No. 33, Harris County Municipal Utility District No. 150, Harris County Municipal Utility District No. 200, Harris

1 County Municipal Utility District No. 205, Harris County Municipal
2 Utility District No. 215, Harris County Municipal Utility District
3 No. 217, Harris County Municipal Utility District No. 304, Harris
4 County Utility District No. 399, Harris County Utility District No.
5 16, Fallbrook Utility District and Rankin Road West Municipal
6 Utility District, each being a conservation and reclamation
7 district created pursuant to Section 59, Article XVI, Texas
8 Constitution.

9 (9) "Person" includes an individual, corporation,
10 organization, government or governmental subdivision or agency,
11 district, local government, business trust, estate, trust,
12 partnership, association, or any other legal entity.

13 (10) "Subsidence" has the meaning assigned by Section
14 151.002, Water Code.

15 (11) "Subsidence district" means the Harris-Galveston
16 Coastal Subsidence District.

17 (12) "System" means a network of pipelines, conduits,
18 valves, canals, pumping stations, force mains, treatment plants,
19 and any other construction, device, or related appurtenance used to
20 treat or transport water.

21 (13) "Water" includes:

22 (A) groundwater, percolating or otherwise;

23 (B) any surface water, natural or artificial,
24 navigable or nonnavigable; and

25 (C) industrial and municipal wastewater.

26 (14) "Well" includes a facility or device owned or
27 partially owned by a member district and used to withdraw

1 groundwater from a groundwater source inside or outside the
2 boundaries of the authority for the purpose of supplying water to
3 territory inside the boundaries of the authority.

4 SECTION 1.03. BOUNDARIES.

5 The boundaries of the authority include all of the land
6 that is, on the effective date of this Act, within the boundaries of
7 each of the member districts, regardless of whether the territory
8 contains noncontiguous parcels of land or whether the territory is
9 located within the boundaries of any other governmental entity or
10 political subdivision of the state, together with any territory
11 that is annexed into the boundaries of the authority pursuant to
12 Section 1.05 of this Act.

13 SECTION 1.04. EXCLUSION OF CERTAIN TERRITORY.

14 (a) On the mutual agreement between the board and the
15 governing body of a member district, all of the land within that
16 member district may be excluded from the authority.

17 (b) If a member district is excluded from the authority's
18 boundaries under this section, the authority:

19 (1) is not required to provide water or any other
20 service to the district; and

21 (2) is not required to include the district in any
22 groundwater reduction plan adopted or implemented by the authority,
23 and may remove the district from any groundwater reduction plan
24 adopted by the authority that includes such district.

25 (c) If a member district excluded from the authority's
26 boundaries under this section petitions the authority to be annexed
27 under Section 1.05 of this Act, the authority may annex the

1 district. The authority may require, as a condition of annexation,
2 terms and conditions the Board considers appropriate. The
3 authority may require the district to pay the authority the fees,
4 user fees, charges, and special assessments, with interest, that,
5 as determined by the authority, the district would have been
6 charged by the authority if the district had not been excluded from
7 the authority under this section.

8 SECTION 1.05. ANNEXATION.

9 (a) Except to the extent the authority agrees in writing, a
10 municipality's annexation of territory within the authority has no
11 effect on:

- 12 (1) the authority's powers inside or outside the
13 annexed territory;
- 14 (2) the authority's boundaries or contracts; and
- 15 (3) the authority's ability to assess fees, user fees,
16 rates, charges, or special assessments inside or
17 outside the territory annexed by the
18 municipality.

19 (b) Territory may be annexed to the authority, regardless of
20 whether the territory is contiguous to the authority, as provided
21 by Chapter 49, Water Code.

22 (c) In addition to the authority granted by Subsection (b)
23 of this section, regardless of whether the territory is contiguous
24 to the authority, the authority may annex all of the territory
25 located within a district if the district files with the authority a
26 petition requesting the annexation signed by a majority of the
27 governing body of the district. The petition must include an

1 accurate legal description of the boundaries of the district. If
2 the authority has bonds, notes, or other obligations outstanding,
3 the authority shall require the petitioning district to be
4 obligated to pay its share of the principal of and interest on the
5 outstanding bonds, notes, or other obligations, and related costs.
6 In addition, the authority may require the petitioning district to
7 pay a portion of the expenses incurred by the member districts in
8 connection with the organization, creation, and administration of
9 the authority. The board may grant the petition and order the
10 district annexed to the authority if:

11 (1) it is feasible, practicable, and to the advantage
12 of the authority; and

13 (2) the authority's system and other improvements are
14 sufficient or will be sufficient to supply surface water and
15 groundwater to the added territory, if required pursuant to any
16 groundwater reduction plan adopted and implemented by the
17 authority, without harming the territory already included in the
18 authority.

19 (d) Any territory that a member district annexes after the
20 effective date of this Act, becomes territory of the authority,
21 only on the adoption of an order or resolution by the board
22 consenting to the inclusion of the additional territory within the
23 authority. The authority by rule may require all member districts
24 to send to the authority written notice of the effective date of an
25 annexation and require the member districts to send to the
26 authority copies of any necessary documents describing the annexed
27 land and describing the member district's boundaries and actual and

1 projected water usage requirements as they exist after inclusion of
2 the annexed land.

3 (e) The annexation to the authority of territory under this
4 section does not affect the validity of the authority's bonds
5 issued before or after the annexation.

6 (f) A municipality that annexes territory of the authority
7 for limited purposes under Subchapter F, Chapter 43, Local
8 Government Code, does not have the right to:

9 (1) receive notices from the authority under section
10 4.03(c) of this Act;

11 (2) participate in the appointment of directors under
12 article 2 of this Act; or

13 (3) receive information about or have the opportunity
14 to fund its share of capital costs in the manner provided by the
15 authority under section 4.04.

16 SECTION 1.06. DIRECTOR PRECINCTS.

17 (a) The authority is divided into three single-member
18 director precincts as follows:

19 (1) Director Precinct No. 1 includes the territory
20 that is contained in the following member districts: Harris County
21 Municipal Utility District No. 33, Fallbrook Utility District,
22 Rankin Road West Municipal Utility District and Harris County
23 Municipal Utility District No. No. 215.

24 (2) Director Precinct No. 2 includes the territory
25 that is contained in the following member districts: Harris County
26 Municipal Utility District No. 150, Harris County Municipal
27 District No. 217, and Harris County Municipal Utility District No.

1 304.

2 (3) Director Precinct No. 3 includes the territory
3 that is contained in the following member districts: Harris County
4 Municipal Utility District No. 200, Harris County Municipal Utility
5 District No. 205, Harris County Municipal Utility District No. 399
6 and Harris County Utility District No. 16.

7 (b) The board may redraw the single-member director
8 precincts in a manner that is reasonable and equitable:

9 (1) after any change in the boundaries of the
10 authority; or

11 (2) by a resolution redrawing the director precincts
12 adopted by a majority of the board based on changed circumstances.

13 SECTION 1.07. APPLICABILITY OF OTHER LAW.

14 (a) This Act prevails over any inconsistent provision of
15 general law.

16 (b) This Act does not prevail over or preempt a provision of
17 Chapter 151, Water Code, or Chapter 36, Water Code, that is being
18 implemented by the subsidence district.

19 SECTION 1.08. FINDING OF BENEFIT.

20 All the land, property, and persons included within the
21 boundaries of the authority will be directly benefited by the
22 works, projects, improvements, and services to be provided by the
23 authority under powers conferred by Section 59, Article XVI, Texas
24 Constitution, and this Act. The authority is created to serve a
25 public use and benefit. The creation of the authority will serve to
26 promote the health, safety, and general welfare of persons within
27 the authority, and the general public. Any fees, user fees, rates,

1 charges, or special assessments levied by the authority under this
2 Act are necessary to pay for the costs of accomplishing the purposes
3 of the authority as set forth in Section 59, Article XVI, Texas
4 Constitution, and this Act, including:

- 5 (1) the reduction of groundwater withdrawals;
6 (2) the facilitation of compliance with subsidence
7 district requirements; and
8 (3) the provision of services, facilities, and
9 systems.

10 SECTION 1.09. LIBERAL CONSTRUCTION OF THIS ACT.

11 This Act shall be liberally construed in conformity with the
12 purposes stated in this Act.

13 ARTICLE 2. DIRECTORS

14 SECTION 2.01. BOARD OF DIRECTORS.

- 15 (a) The authority is governed by a board of five directors.
16 (b) The directors serve staggered four-year terms.
17 (c) Each director must qualify to serve as director in the
18 manner provided by Section 49.055, Water Code.
19 (d) To be eligible to serve as a director of the authority or
20 to be listed on a ballot as a candidate for director of the
21 authority under section 2.02 of this Act, an individual must:

- 22 (1) be at least 18 years of age;
23 (2) be a resident of this state;
24 (3) own land or be a qualified voter within the
25 authority; and
26 (4) have served as a director of one or more districts
27 for a total of two years or more.

1 (e) To be eligible to serve as a director representing a
2 director precinct or to be listed on a ballot as a candidate for
3 director representing a director precinct under section 2.02 of
4 this Act, in addition to the requirements set forth in subsection
5 (d) of this section, an individual must own land or be a qualified
6 voter within the director precinct.

7 (f) A director serves until the director's successor has
8 qualified.

9 (g) The common law doctrine of incompatibility does not
10 disqualify an official or employee of a municipality from serving
11 as a director of the authority. Notwithstanding any other law, a
12 director may participate in all votes and decisions pertaining to
13 the business of the authority. A director who is also an officer or
14 employee of a public entity may not participate in the discussion of
15 or vote on a matter regarding a contract with that public entity.

16 SECTION 2.02. METHOD OF APPOINTMENT OF DIRECTORS.

17 (a) One director is appointed from each of the three
18 director precincts and two directors are appointed at-large. Two
19 directors from director precincts and one director at-large shall
20 be appointed in the first even-numbered year after the authority is
21 created, and one director from a director precinct and one director
22 at-large shall be appointed in the next even-numbered year after
23 the authority is created. Each subsequent even-numbered year, the
24 appropriate number of directors shall be appointed.

25 (b) In the appropriate even-numbered year, the governing
26 bodies of the member districts located within a director precinct
27 jointly shall appoint one director to represent the precinct by a

1 vote conducted as provided by this section. Each even-numbered
2 year, the governing bodies of each member district shall appoint
3 one director for an at-large position by a vote conducted as
4 provided by this section.

5 (c) If a member district is located within two or more
6 director precincts, the member district is considered, for purposes
7 of this article, to be located only within the director precinct in
8 which the greatest amount of territory of the member district is
9 located.

10 (d) For the appointment of a director for a director
11 precinct, the board shall determine the number of votes each member
12 district may cast. The number of votes for a governing body of a
13 member district within the precinct is equal to the number computed
14 by dividing the total number of units of water, as determined by the
15 board, used within the member district during the calendar year
16 preceding the year in which the selection of the director is done,
17 by the total number of units of water used by all member districts
18 in the precinct, multiplying that quotient by 100, and rounding
19 that result to the nearest one-tenth. The board shall provide the
20 presiding officer of each governing body of a member district
21 within each director precinct written notice of the number of votes
22 computed for that governing body to cast.

23 (e) For the appointment of a director for an at-large
24 position, the board shall determine the number of votes each member
25 district may cast. The number of votes for a governing body of a
26 member district is equal to the number computed by dividing the
27 total number of units of water, as determined by the board, used

1 within the member district during the calendar year preceding the
2 year in which the selection of the director is done by the total
3 number of units of water used by all member districts in the
4 authority, multiplying that quotient by 100 and rounding that
5 result to the nearest one-tenth. The board shall provide the
6 presiding officer of each governing body of a member district
7 written notice of the number of votes computed for that governing
8 body to cast.

9 (f) For purposes of subsections (d) and (e) of this section,
10 the board shall determine the amount of water usage of all member
11 districts within each director precinct.

12 (g) In the appropriate even-numbered year, the governing
13 body of each member district in a director precinct by resolution
14 may nominate one candidate for the position of director for that
15 director precinct. Each member district shall submit the name of
16 its candidate, if any, to the presiding officer of the authority by
17 February 15 of that year. If by February 15 of that year only one
18 candidate's name is submitted for the position of director for a
19 director precinct, the board may declare the unopposed candidate
20 elected and may cancel the director appointment procedures
21 generally required by this section for that position. If more than
22 one candidate's name is submitted for the position of director for a
23 director precinct, before March 15 of that year, the board shall
24 prepare, for the director precinct or precincts from which a
25 director is being appointed, a ballot listing all of the candidates
26 for that director precinct and shall provide a copy of the
27 appropriate ballot to the presiding officer of the governing body

1 of each member district located within the director precinct or
2 precincts from which a director is being appointed.

3 (h) The governing body of each member district by resolution
4 may nominate one candidate for the at-large director position.
5 Each member district shall submit the name of its candidate, if any,
6 to the presiding officer of the authority by February 15 of each
7 even-numbered year. If by February 15 of that year only one
8 candidate's name is submitted for the position of director for the
9 at-large director position, the board may declare the unopposed
10 candidate elected and may cancel the director appointment
11 procedures generally required by this section for that position.
12 If more than one candidate's name is submitted for the position of
13 director for the at-large director position, before March 15 of
14 that year, the board shall prepare a ballot listing all of the
15 candidates for the at-large director position and shall provide a
16 copy of the ballot to the presiding officer of the governing body of
17 each member district.

18 (i) An individual may not be listed as a candidate on more
19 than one ballot. If a candidate is nominated for more than one
20 director position, the candidate must choose to be on the ballot for
21 only one director position.

22 (j) The governing body of each member district shall
23 determine its votes for director by resolution and submit them to
24 the presiding officer of the authority before May 1 of each
25 even-numbered year. In casting its votes for director, the
26 governing body of each member district may vote for only one
27 candidate on the ballot for the director precinct in which the

1 member district is located and for one candidate on the at-large
2 position ballot. For each director precinct from which a director
3 is being appointed, the board shall count the votes, declare
4 elected the candidate who received the greatest number of votes
5 from member districts located within that director precinct, and
6 submit the results before May 15 of that year to the governing body
7 of each member district within that director precinct. For the
8 at-large position, the board shall count the votes, declare elected
9 the candidate who received the greatest number of votes, and submit
10 the results before May 15 of that year to the governing body of each
11 member district.

12 (k) The board may adopt rules regarding:

13 (1) the manner and timing of determinations and
14 calculations required by this section;

15 (2) the reporting of water usage to the authority by
16 member districts; and

17 (3) the conduct and process of the appointment of
18 directors.

19 SECTION 2.03. VACANCY IN OFFICE OF DIRECTOR.

20 A vacancy in the office of director for a director precinct
21 shall be filled by appointment by the governing bodies of the member
22 districts that are located within the director precinct for which
23 the vacancy occurred. A vacancy in the office of director for an
24 at-large position shall be filled by appointment by the governing
25 bodies of all of the member districts. The appointment process
26 shall follow the procedures of section 2.02 of this Act. The board
27 may establish dates different from those specified by sections

1 2.02(g) and (h) of this Act, but the date for the board's submission
2 of the voting results to each member district may not be later than
3 the 120th day after the date the vacancy occurs.

4 SECTION 2.04. INITIAL DIRECTORS.

5 (a) The initial board consists of:

6 Name of Director:	Representing Director Precinct:
7 Margaret Cox	(Precinct 1)
8 Judge Caston	(Precinct 2)
9 Babara Hays	(Precinct 3)
10 Julian Boddy	(At Large)
11 James A. Johnson	(At Large)

12 (b) At the first meeting of the initial board, or as soon as
13 practicable after that meeting, the directors shall draw lots to
14 determine:

15 (1) their terms so that:

16 (a) three directors, including one at-large position,
17 serve until the first appointment of directors under section 2.02
18 of this Act; and

19 (b) two directors, including one at-large position,
20 serve until the second appointment of directors under section 2.02
21 of this Act; and

22 (2) which two director precincts appoint a director in
23 the first even-numbered year in which directors are appointed under
24 section 2.02 of this Act.

25 ARTICLE 3. ADMINISTRATIVE PROVISIONS

26 SECTION 3.01. MEETINGS AND ACTIONS OF BOARD.

27 (a) The board may meet as many times each year as the board

1 considers appropriate.

2 (b) Directors of the authority are public officials and are
3 entitled to governmental immunity for their actions in their
4 capacity as directors and officers of the authority.

5 (c) Directors of the authority may receive fees of office
6 and reimbursement of expenses as provided by Section 49.060, Water
7 Code.

8 SECTION 3.02. GENERAL MANAGER.

9 (a) The board may employ a general manager of the authority
10 or contract with a person to perform the duties of a general
11 manager. The board may delegate to the general manager full
12 authority to manage and operate the affairs of the authority
13 subject only to orders of the board.

14 (b) The board may delegate to the general manager the
15 authority to employ all persons necessary for the proper handling
16 of the business and operation of the authority and to determine the
17 compensation to be paid to all employees, other than the general
18 manager.

19 ARTICLE 4. POWERS AND DUTIES

20 SECTION 4.01. GENERAL POWERS AND DUTIES.

21 (a) The authority has all of the rights, powers, privileges,
22 authority, functions, and duties necessary and convenient to
23 accomplish the purposes of this Act, including those provided by
24 Chapter 49, Water Code.

25 (b) The authority may:

26 (1) provide for the conservation, preservation,
27 protection, recharge, and prevention of waste of groundwater, and

1 for the reduction of groundwater withdrawals as necessary to
2 develop, implement, or enforce a groundwater reduction plan, in a
3 manner consistent with the purposes of Section 59, Article XVI,
4 Texas Constitution, and facilitate compliance with subsidence
5 district rules, orders, regulations, or requirements;

6 (2) acquire or develop surface water and groundwater
7 supplies from sources inside or outside the boundaries of the
8 authority, conserve, store, transport, treat, purify, distribute,
9 sell, and deliver water to or among persons, corporations,
10 municipalities, municipal corporations, political subdivisions of
11 the state, and others, inside and outside the boundaries of the
12 authority, and allocate water among persons participating in the
13 authority's groundwater reduction plan whether they are located
14 inside or outside the authority's boundaries;

15 (3) enter into contracts with persons inside or
16 outside the authority on terms and conditions the board considers
17 desirable, fair, and advantageous for the performance of its
18 rights, powers, and authority under this Act;

19 (4) coordinate water services provided inside,
20 outside, or into the authority; and

21 (5) administer and enforce the provisions of this Act.

22 (c) The authority's rights, powers, privileges, authority,
23 functions, and duties are subject to the continuing right of
24 supervision of the state, to be exercised by and through the
25 commission.

26 (d) Sections 49.451-49.455, Water Code, do not apply to the
27 authority.

1 SECTION 4.02. AUTHORITY RULES.

2 The authority may adopt and enforce rules reasonably required
3 to implement this Act, including rules governing procedures before
4 the board and rules regarding implementation, enforcement, and any
5 other matters related to the authority's water supply or
6 groundwater reduction plan.

7 SECTION 4.03. FEES, USER FEES, RATES, AND CHARGES.

8 (a) The authority may establish fees, user fees, rates, and
9 charges and classifications of fee and ratepayers, as necessary to
10 enable the authority to fulfill the authority's purposes and
11 regulatory functions provided by this Act. The authority may
12 impose fees, user fees, rates, and charges on any person within the
13 authority.

14 (b) The authority may charge the owner of a well located
15 within the authority's boundaries a fee or user fee according to the
16 amount of water pumped from the well.

17 (c) The board shall make reasonable efforts to send member
18 districts written notice of the date, time, and location of the
19 meeting at which the board intends to adopt a proposed charge under
20 subsection (b) of this section, and the amount of the proposed
21 charge. The board's failure to comply with this subsection does not
22 invalidate a charge adopted by the board under subsection (b) of
23 this section.

24 (d) The board shall exempt from the charge under subsection
25 (b) of this section classes of wells that are not subject to any
26 groundwater reduction requirement imposed by the subsidence
27 district. If any of those classes of wells become subject to a

1 groundwater reduction requirement imposed by the subsidence
2 district, the authority may impose the charge under subsection (b)
3 of this section on those classes. The board by rule may exempt any
4 other classes of wells from the charge under subsection (b) of this
5 section. The board may not apply the charge under subsection (b) of
6 this section to a well:

7 (1) with a casing diameter of less than five inches
8 that solely serves a single-family dwelling; or

9 (2) regulated under Chapter 27, Water Code.

10 (e) The authority may establish fees, user fees, rates, and
11 charges that are sufficient to:

12 (1) achieve water conservation;

13 (2) prevent waste of water;

14 (3) serve as a disincentive to pumping groundwater;

15 (4) develop, implement, or enforce a groundwater
16 reduction plan;

17 (5) accomplish the purposes of this Act, including
18 making available alternative water supplies;

19 (6) enable the authority to meet operation and
20 maintenance expenses;

21 (7) pay the principal of and interest on notes, bonds,
22 and other obligations issued in connection with the exercise of the
23 authority's general powers and duties; and

24 (8) satisfy all rate covenants relating to the
25 issuance of notes, bonds, and other obligations.

26 (f) The authority may charge rates established by the
27 authority for water purchased from the authority.

1 (g) The authority may impose fees, user fees, or charges for
2 the importation of water into the authority's boundaries from a
3 source located outside the authority's boundaries.

4 SECTION 4.04. PURCHASE OF WATER FROM ANOTHER ENTITY.

5 If the authority purchases water from another entity for
6 resale to local governments, the authority shall use its best
7 efforts in negotiating with the entity to determine the amount of
8 capital costs included in any rates or charges paid by the
9 authority. The authority shall determine the amount of expected
10 capital costs of its own system. The authority shall provide each
11 member district within its boundaries information regarding the
12 share of the capital costs to be paid by the member district, as
13 determined by the authority, and shall provide each member district
14 the opportunity, in a manner and by a procedure determined by the
15 authority, to fund its share of the capital costs with proceeds from
16 the sale of bonds or fees and charges collected by the member
17 districts. A member district may use any lawful source of revenue,
18 including bond funds, to make payment for any sums due to the
19 authority.

20 SECTION 4.05. ASSESSMENTS.

21 (a) The board may undertake improvement projects and
22 services that confer a special benefit on all or a definable part of
23 the authority. The board may impose special assessments on
24 property in that area, including property of a local government,
25 based on the benefit conferred by the improvement project or
26 services, to pay all or part of the cost of the project and
27 services. The board may provide improvements and services to an

1 area outside the boundaries of the authority if the board
2 determines that there is a benefit to the authority. The authority
3 may finance with special assessments any improvement project or
4 service authorized by this Act or any other applicable law.

5 (b) Services or improvement projects may be financed with
6 special assessments under this Act only after the board holds a
7 public hearing on the advisability of the improvements and services
8 and the proposed assessments.

9 (c) The board shall publish notice of the hearing in a
10 newspaper or newspapers with general circulation in Harris County.
11 The publication must be made not later than the 30th day before the
12 date of the hearing.

13 (d) Notice provided under this section must include:

14 (1) the time and place of the hearing;

15 (2) the general nature of the proposed improvement
16 project or services;

17 (3) the estimated cost of the improvement, including
18 interest during construction and associated financing costs; and

19 (4) the proposed method of assessment.

20 (e) Written notice containing the information required by
21 Subsection (d) of this section shall be mailed by certified mail,
22 return receipt requested, not later than the 30th day before the
23 date of the hearing. The notice shall be mailed to each member
24 district. The subsidence district shall provide to the authority a
25 list of member districts that hold a permit for a well issued by the
26 subsidence district.

27 (f) The board may establish rules regarding procedures for a

1 hearing. A hearing on the services or improvement project, whether
2 conducted by the board or a hearings examiner, may be adjourned from
3 time to time. At the conclusion of a hearing conducted by the
4 board, the board shall make written findings and conclusions
5 relating to the advisability of the improvement project or
6 services, the nature of the improvement project or services, the
7 estimated cost, and the area benefited. If the board appoints a
8 hearings examiner to conduct the hearing, after conclusion of the
9 hearing, the hearings examiner shall file with the board a written
10 report of the examiner's findings and conclusions.

11 (g) At a hearing on proposed assessments, on adjournment of
12 the hearing, or after consideration of the hearings examiner's
13 report, the board shall hear and rule on all objections to each
14 proposed assessment. The board may amend proposed assessments for
15 any property. After the board hears and takes action on those
16 objections, the board, by order:

17 (1) shall impose the assessments as special
18 assessments on the property;

19 (2) shall specify the method of payment of the
20 assessments; and

21 (3) may provide that those assessments, including
22 interest, be paid in periodic installments.

23 (h) Periodic installments must be in amounts sufficient to
24 meet annual costs for services and improvements as provided by
25 Subsection (j) of this section and continue for the number of years
26 required to retire the indebtedness or pay for the services to be
27 rendered. The board may provide interest charges or penalties for

1 failure to make timely payment and may impose an amount to cover
2 delinquencies and expenses of collection.

3 (i) If assessments are imposed for more than one service or
4 improvement project, the board may provide that assessments
5 collected for one service or improvement project may be borrowed to
6 be used for another service or improvement project. The board shall
7 establish a procedure for the distribution or use of any
8 assessments in excess of those necessary to finance the services or
9 improvement project for which those assessments were collected.

10 (j) The board shall apportion the cost of an improvement
11 project or services to be assessed against the property in the
12 authority according to the special benefits that accrue to the
13 property because of the improvement project or services. The board
14 may assess the cost only according to the number of gallons of
15 groundwater pumped from wells within the authority that are subject
16 to a groundwater reduction requirement imposed by the subsidence
17 district. The board may not assess the cost according to
18 groundwater pumped from:

19 (1) a well with a casing diameter of less than five
20 inches that solely serves a single-family dwelling; or

21 (2) a well that is regulated by Chapter 27, Water Code.

22 (k) The area of the authority to be assessed according to
23 the findings of the board may be the entire authority or any part of
24 the authority and may be less than the area proposed in the notice
25 of the hearing.

26 (l) The area to be assessed may not include property that is
27 not within the authority boundaries at the time of the hearing

1 unless there is an additional hearing, following the required
2 notice.

3 (m) Notwithstanding Subsection (l), the owner of land
4 annexed to the authority after the authority has imposed
5 assessments may waive the right to notice and an assessment hearing
6 and may agree to the imposition and payment of assessments at an
7 agreed rate for land annexed to the authority. A member district
8 may waive the right to notice and an assessment hearing for land
9 within its boundaries annexed to the authority and may agree to the
10 imposition and payment of assessments at an agreed rate for the
11 annexed land.

12 (n) The board shall have prepared an assessment roll showing
13 the assessments against each property and the board's basis for the
14 assessment. The assessment roll shall be:

15 (1) filed with the secretary of the board or other
16 officer who performs the function of secretary; and

17 (2) open for public inspection.

18 (o) After notice and hearing in the manner required for an
19 original assessment, the board may make supplemental assessments to
20 correct omissions or mistakes in the assessment:

21 (1) relating to the total cost of the improvement
22 project or services; or

23 (2) covering delinquencies or costs of collection.

24 SECTION 4.06. INTEREST AND PENALTIES.

25 The board may require the payment of interest on any late or
26 unpaid fees, user fees, rates, charges, and special assessments due
27 the authority, but the interest rate may not exceed the interest

1 rate permitted by Section 2251.025, Government Code. The board may
2 also impose penalties for the failure to make a complete or timely
3 payment to the authority. In addition, the board may exclude a
4 person or member district, or any territory or well owned or
5 controlled by a person or member district, from the authority's
6 groundwater reduction plan for failure to make a complete or timely
7 payment to the authority.

8 SECTION 4.07. CIVIL PENALTY; INJUNCTION.

9 (a) A person who violates a rule or order of the authority is
10 subject to a civil penalty of not more than \$5,000, as determined by
11 the board, for each violation or each day of a continuing violation.
12 The person shall pay the penalty to the authority.

13 (b) The authority may bring an action to recover the penalty
14 in a district court in the county where the violation occurred.

15 (c) The authority may bring an action for injunctive relief
16 in a district court in the county where a violation of an authority
17 rule or order occurs or is threatened to occur. The court may grant
18 to the authority, without bond or other undertaking, a prohibitory
19 or mandatory injunction that the facts warrant, including a
20 temporary restraining order, temporary injunction, or permanent
21 injunction.

22 (d) The authority may bring an action for a civil penalty
23 and injunctive relief in the same proceeding.

24 SECTION 4.08. WATER SUPPLY OR DROUGHT CONTINGENCY PLANS.

25 The authority by rule may develop, prepare, revise, adopt,
26 implement, enforce, and manage comprehensive water supply or
27 drought contingency plans for the authority, or any portion of the

1 authority.

2 SECTION 4.09. GROUNDWATER REDUCTION PLAN.

3 (a) Notwithstanding any other law, irrespective of whether
4 the authority enters into contracts with local governments located
5 within its boundaries, and irrespective of whether the authority
6 holds any well permit issued by the subsidence district under
7 Chapter 151, Water Code, the authority by rule may, in whole or in
8 part, develop, prepare, revise, adopt, implement, enforce, manage,
9 or participate in a groundwater reduction plan that is applicable
10 only to the authority or a groundwater reduction plan that is
11 applicable to the authority and one or more persons outside the
12 authority. The authority may require that any groundwater
13 reduction plan that the authority, in whole or in part, develops,
14 prepares, revises, adopts, implements, enforces, or manages or in
15 which the authority participates be the exclusive groundwater
16 reduction plan that is binding and mandatory on some or all of the
17 territory, persons, member districts, or wells located within the
18 authority. A groundwater reduction plan may:

19 (1) specify the measures to be taken to reduce
20 groundwater withdrawals;

21 (2) identify alternative sources of water to be
22 provided to those affected;

23 (3) identify the rates, terms, and conditions under
24 which alternative sources of water will be provided, which may be
25 changed from time to time as considered necessary by the authority;

26 (4) specify the dates and extent to which persons
27 within the authority's boundaries or member districts shall reduce

1 or cease reliance on groundwater and accept water from alternative
2 sources;

3 (5) include other terms and measures that are
4 consistent with the powers and duties of the authority;

5 (6) exceed the minimum requirements imposed by the
6 subsidence district, including any applicable groundwater
7 reduction requirements; and

8 (7) be amended from time to time at the discretion of
9 the authority.

10 (b) Fees, user fees, rates, charges, and special
11 assessments of the authority may be imposed under this Act for a
12 person's participation in and benefit derived from the authority's
13 groundwater reduction plan or a groundwater reduction plan in which
14 the authority participates.

15 SECTION 4.10. ACQUISITION, CONSTRUCTION, AND OPERATION OF
16 SYSTEMS.

17 (a) The authority may:

18 (1) acquire by purchase, gift, lease, contract, or any
19 other legal means a water treatment or supply system, or any other
20 works, plants, improvements, or facilities necessary or convenient
21 to accomplish the purposes of the authority, or any interest of the
22 authority, inside or outside the authority's boundaries;

23 (2) design, finance, operate, maintain, or construct a
24 water treatment or supply system, or any other works, plants,
25 improvements, or facilities necessary or convenient to accomplish
26 the purposes of the authority, and provide water services inside or
27 outside the authority's boundaries;

1 (3) lease or sell a water treatment or supply system or
2 any other works, plants, improvements, or facilities necessary or
3 convenient to accomplish the purposes of the authority, that the
4 authority constructs or acquires inside or outside the authority's
5 boundaries;

6 (4) contract with any person to operate or maintain a
7 water treatment or supply system the person owns; or

8 (5) acquire water rights under any law or permit.

9 (b) The competitive bidding laws provided by Chapter 49,
10 Water Code, apply to the authority.

11 (c) The authority may contract, according to terms and
12 conditions the board considers desirable, fair, and advantageous,
13 contract with a person outside the authority's boundaries:

14 (1) to allow the person to be included in a groundwater
15 reduction plan adopted or implemented, in whole or in part, by the
16 authority or in a groundwater reduction plan in which the authority
17 participates;

18 (2) to sell water to the person; or

19 (3) to sell the person available excess capacity or
20 additional capacity of the authority's water treatment or supply
21 system.

22 (d) The authority by rule may require that the plans and
23 specifications of water lines to be constructed within the
24 authority that are designed or intended to serve more than one
25 member district or more than one person owning or holding a well
26 permit issued by the subsidence district under Chapter 151, Water
27 Code, be approved by the authority before the commencement of

1 construction of the water lines.

2 SECTION 4.11. SALE OR REUSE OF WATER OR BY-PRODUCT.

3 The authority may store, sell, or reuse:

4 (1) water; or

5 (2) any by-product from the authority's operations.

6 SECTION 4.12. CONTRACTS.

7 (a) The authority may enter into a contract with a person
8 for the performance of a purpose or function of the authority,
9 including a contract to design, construct, finance, lease, own,
10 manage, operate, or maintain works, improvements, facilities,
11 plants, equipment, or appliances necessary to accomplish a purpose
12 or function of the authority. A contract may be of unlimited
13 duration.

14 (b) The authority may purchase, acquire, finance, or lease
15 an interest in a project used for a purpose or function of the
16 authority.

17 (c) The authority may contract for:

18 (1) the purchase, sale, or lease of water or water
19 rights;

20 (2) the performance of activities within the powers of
21 the authority through the purchase, construction, or installation
22 of works, improvements, facilities, plants, equipment, or
23 appliances; or

24 (3) the design, construction, ownership, management,
25 maintenance, or operation of any works, improvements, facilities,
26 plants, equipment, or appliances of the authority or another
27 person.

1 (d) The authority may purchase surplus property from this
2 state, the United States, or another public entity through a
3 negotiated contract without bids.

4 SECTION 4.13. COOPERATION WITH AND ASSISTANCE OF OTHER
5 GOVERNMENTAL ENTITIES.

6 (a) In implementing this Act, the board may cooperate with
7 and request the assistance of the Texas Water Development Board,
8 the commission, the United States Geological Survey, the subsidence
9 district, other local governments, and other agencies of the United
10 States and this state.

11 (b) The subsidence district may enter into an interlocal
12 contract with the authority to carry out the authority's purposes
13 and may carry out the governmental functions and services specified
14 in the interlocal contract.

15 (c) The board shall endeavor to coordinate with the City of
16 Houston to develop a plan for a system to distribute surface water
17 in an economical and efficient manner to the authority.

18 (d) In an attempt to minimize costs associated with
19 preparing a groundwater reduction plan, the board shall consider
20 the usefulness of water supply studies and plans prepared by or on
21 behalf of the North Harris County Regional Water Authority, the
22 West Harris County Regional Water Authority, the City of Houston,
23 or other governmental entities to the extent such studies or plans
24 are available and applicable to the authority.

25 SECTION 4.14. GIFTS AND GRANTS.

26 The authority may accept a gift or grant from money collected
27 by the subsidence district under Chapter 151, Water Code, to fund

1 the construction, maintenance, or operation of a water treatment or
2 supply system.

3 SECTION 4.15. EXPENDITURES.

4 (a) The authority's money may be disbursed only by check,
5 draft, order, federal reserve wire system, or other instrument or
6 authorization.

7 (b) Disbursements of the authority must be signed by at
8 least a majority of the directors. Notwithstanding any other law,
9 the board by resolution may allow the general manager, treasurer,
10 bookkeeper, or other employee of the authority to sign
11 disbursements, except as limited by Subsection (c) of this section.

12 (c) The board by resolution may allow disbursements to be
13 transferred by federal reserve wire system to accounts in the name
14 of the authority without the necessity of any directors signing the
15 disbursement. Disbursements of the authority's money by federal
16 reserve wire system to any accounts not in the name of the authority
17 must be signed by at least a majority of the directors.

18 SECTION 4.16. AD VALOREM TAXATION.

19 The authority may not impose an ad valorem tax.

20 SECTION 4.17. EMINENT DOMAIN.

21 (a) The authority may acquire by condemnation any land,
22 easements, or other property inside the authority's boundaries to
23 further authorized purposes, powers, or duties of the authority.
24 The authority may acquire by condemnation any land, easements, or
25 other property outside the authority's boundaries for the purposes
26 of pumping, storing, treating, or transporting water. When
27 exercising the power of eminent domain granted by this section, the

1 authority may elect to condemn either the fee simple title or a
2 lesser property interest.

3 (b) The authority shall exercise the right of eminent domain
4 in the manner provided by Chapter 21, Property Code. The authority
5 is not required to give bond for appeal or bond for costs in a
6 condemnation suit or other suit to which it is a party. The
7 authority is not required to deposit more than the amount of an
8 award in a suit.

9 (c) The authority may not use the power of eminent domain
10 for the condemnation of land for the purpose of acquiring rights to
11 underground water or for the purpose of acquiring water or water
12 rights.

13 (d) The authority may not use the power of eminent domain
14 for the condemnation of property that is:

15 (1) owned by the City of Houston or any
16 instrumentality of the City of Houston, including any local
17 government corporation created under Chapter 431, Transportation
18 Code, to aid or act on behalf of the City of Houston; or

19 (2) located within the municipal limits of the City of
20 Houston.

21 (e) Notwithstanding Subsection (d)(2) of this section, the
22 authority may use the power of eminent domain to acquire property
23 that is not owned by the City of Houston that is within the
24 municipal limits of the City of Houston if:

25 (1) the property is located in an area of the
26 municipality that is less than 1,000 feet wide at its narrowest
27 point; or

1 (2) the municipality grants permission for the
2 condemnation.

3 ARTICLE 5. BONDS AND NOTES

4 SECTION 5.01. REVENUE BONDS AND NOTES.

5 (a) The authority may issue bonds or notes payable solely
6 from revenue from any source, including:

7 (1) tolls, charges, rates, fees, user fees, and
8 special assessments the authority imposes or collects;

9 (2) the sale of water, water services, water rights or
10 capacity, water transmission rights or services, water pumping, or
11 any other service or product of the authority provided inside or
12 outside the boundaries of the authority;

13 (3) grants or gifts;

14 (4) the ownership or operation of all or a designated
15 part of the authority's works, improvements, facilities, plants, or
16 equipment; and

17 (5) contracts between the authority and any person.

18 (b) Notes issued by the authority may be first or
19 subordinate lien notes at the board's discretion.

20 (c) In connection with any bonds or notes of the authority,
21 the authority may exercise any power of an issuer under Chapter
22 1371, Government Code.

23 (d) The authority may conduct a public, private, or
24 negotiated sale of the bonds or notes.

25 (e) The authority may enter into one or more indentures of
26 trust to further secure its bonds or notes.

27 (f) The authority may issue bonds or notes in more than one

1 series as necessary to carry out the purposes of this Act. In
2 issuing bonds or notes secured by revenue of the authority, the
3 authority may reserve the right to issue additional bonds or notes
4 secured by the authority's revenue that are on a parity with or are
5 senior or subordinate to the bonds or notes issued earlier.

6 (g) A resolution of the board authorizing the bonds or notes
7 or a trust indenture securing the bonds or notes may specify
8 additional provisions that constitute a contract between the
9 authority and its bondholders or noteholders.

10 (h) Bonds and notes may be additionally secured by deed of
11 trust or mortgage on any or all of the authority's facilities.

12 (i) Sections 49.153, 49.154, and 49.181, Water Code, do not
13 apply to bonds or notes issued by the authority. Commission rules
14 regarding bonds or notes do not apply to bonds or notes issued by
15 the authority.

16 SECTION 5.02. REFUNDING BONDS.

17 The authority may issue refunding bonds and notes to refund
18 any of its bonds or notes in any manner provided by law.

19 ARTICLE 6. MISCELLANEOUS PROVISIONS

20 SECTION 6.01. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

21 (a) The proper and legal notice of the intention to
22 introduce this Act, setting out the general substance of this Act,
23 has been published as provided by law, and the notice and a copy of
24 this Act have been furnished to all persons, agencies, officials,
25 or entities to which they are required to be furnished by the
26 constitution and other laws of this state, including the governor,
27 who has submitted the notice and this Act to the commission.

1 (b) The commission has filed its recommendations relating
2 to this Act with the governor, lieutenant governor, and speaker of
3 the House of Representatives within the required time.

4 (c) All requirements of the constitution and laws of this
5 state and the rules and procedures of the legislature with respect
6 to notice, introduction, and passage of this Act are fulfilled and
7 accomplished.

8 SECTION 6.02. EFFECTIVE DATE.

9 This Act takes effect immediately if it receives a vote of
10 two-thirds of all the members elected to each house, as provided by
11 Section 39, Article III, Texas Constitution. If this Act does not
12 receive the vote necessary for immediate effect, this Act takes
13 effect _____, 2005.