

By: Puente

H.B. No. 3565

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration, powers, and duties of the Bexar
3 Metropolitan Water District.

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

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

8 Sec. 2. (a) The District is a special utility district in
9 Bexar County created under and essential to accomplish the purposes
10 of Section 59, Article XVI, Texas Constitution.

11 (b) Except as otherwise provided by this Act, Chapters 49
12 and 65, Water Code, apply to the District.

13 (c) The District may not establish, operate, or maintain
14 fire-fighting facilities [~~The District is hereby created as a~~
15 ~~governmental agency, a body politic and corporate, and a municipal~~
16 ~~corporation, vested with all the authority as such under the~~
17 ~~Constitution and laws of the State of Texas, and shall have and be~~
18 ~~empowered to exercise all the rights, privileges, functions, and~~
19 ~~powers of such governmental agency and body politic and corporate~~
20 ~~as authorized or implied by the provisions of Article 16, Section 59~~
21 ~~of the Constitution and as have been or may be conferred by General~~
22 ~~Law upon conservation districts and as authorized or implied by the~~
23 ~~provisions of this Act, for the purpose of controlling, conserving,~~
24 ~~protecting, preserving, distributing, and utilizing the storm and~~

1 ~~flood waters of the rivers and streams situated in said District and~~
2 ~~for the purpose of regulating and controlling the disposal of~~
3 ~~sewage, wastes, and other refuse, and the collection and disposal~~
4 ~~thereof, to prevent the contamination and pollution of the public~~
5 ~~waters of the District. It shall have the power to formulate and~~
6 ~~execute any and all plans deemed essential to the accomplishment of~~
7 ~~the purposes for which it is created and shall be recognized to have~~
8 ~~such authority and power of control and regulation over the storm~~
9 ~~and flood waters of its rivers and streams as may be exercised by~~
10 ~~the State of Texas, subject to the provisions of the Constitution~~
11 ~~and Section 4 of this Act].~~

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

15 Sec. 3. In addition to the powers vested by the Constitution
16 and general laws in such public agency for the greatest practicable
17 measure of the conservation, preservation, and beneficial
18 utilization of its public waters and[~~7~~] the power to control and
19 utilize its public waters [~~and to regulate the disposal and the~~
20 ~~disposal of sewage, waste, and refuse], the District shall have the~~
21 following general powers:

22 (a) Through every practical and legal means to develop,
23 transport, deliver, distribute, store, and treat water for use
24 within the District, [~~including the storm and flood waters within~~
25 ~~the District,~~] including the power to cooperate with the United
26 States Government or any agency thereof, or any municipality,
27 public, quasi-public or private agency and to contract, negotiate,

1 and enter into agreements with any one or more of such agencies in
2 effecting such purposes;

3 ~~(b) [to store, control, and conserve storm and flood waters~~
4 ~~of its rivers and streams and to prevent the escape of any such~~
5 ~~waters without first obtaining therefrom a maximum of public~~
6 ~~service, to prevent devastation of property from overflow and to~~
7 ~~protect life and property from uncontrolled flood and storm waters;~~

8 [(c)] to conserve and distribute waters essential for
9 domestic and other uses by the inhabitants of the District,
10 including necessary water supply for cities and towns situated
11 within the District;

12 ~~[(d) to provide for the development of drainage systems to~~
13 ~~control, regulate, and dispose of all storm and flood waters of the~~
14 ~~District so as to protect effectively lives and property, and to~~
15 ~~utilize such waters for each and every purpose for which flood and~~
16 ~~storm waters when controlled, conserved, or regulated may be~~
17 ~~utilized as contemplated by the Constitution and the public policy~~
18 ~~therein declared,]~~

19 (c) [(e)] to provide by purchase, construction, lease,
20 gift, or in any other manner and to operate any and all facilities
21 deemed by the District essential for preserving the purity of all
22 the surface and underground waters of the District for the
23 protection of the health of its inhabitants[, and to formulate
24 plans to make and enforce rules and regulations for the effective
25 disposal of any and all sewage wastes, refuse, or residuum, however
26 accumulated, which otherwise would contaminate, pollute, or render
27 unsafe and insanitary the surface and underground waters of the

1 ~~District and which might threaten or impair the health of its~~
2 ~~inhabitants or which might adversely affect the health of the~~
3 ~~inhabitants downstream below the District];~~

4 (d) [~~(f)~~] to acquire by purchase, construction, lease,
5 gift, or in any other manner (otherwise than by condemnation) and to
6 maintain, use, and operate any and all property of any kind, real,
7 personal, or mixed, or any interest therein within or without the
8 boundaries of the District deemed by its Board of Directors
9 necessary or convenient to the exercise of the powers, rights,
10 privileges, and functions conferred upon it by this Act;

11 (e) [~~(g)~~] to acquire by condemnation any and all property of
12 any kind, real, personal, or mixed, or any interest therein, within
13 [~~or outside of~~] the boundaries of the District, necessary to the
14 exercise of the powers, rights, privileges, and functions conferred
15 by this Act, in the manner provided by General Law relative to
16 condemnation, or at the option of the District, in the manner
17 provided by law with respect to condemnation by agencies organized
18 pursuant to Section 59, Article 16 of the Constitution of the State
19 of Texas; provided that the District shall not have the right or
20 power to so condemn any such property that may be owned by any other
21 political subdivision, city, or town located within the District;

22 (f) [~~(h)~~] to cooperate, contract, and enter into agreements
23 with towns, cities, districts, or political subdivisions located in
24 or outside of the District and with Bexar County, in the
25 construction, purchase, lease, maintenance, improvement, use, and
26 operation of any and all facilities, works, and plants necessary or
27 convenient to the accomplishment of the purposes for which the

1 District was created;

2 (g) [~~(i)~~] to make contracts with any person, private
3 corporation, municipal corporation, political subdivision, or the
4 Board of Trustees thereof, operating water distribution facilities
5 for the benefit of a city or town within the District, under which
6 the District may perform services for such parties or such parties
7 may perform services for the District, or under which either may
8 operate all or any part of the facilities of the other, having due
9 regard for the duties and obligations of such parties in the
10 instrument prescribing their or its duties;

11 (h) [~~(j)~~] to construct, extend, improve, maintain, and
12 reconstruct, to cause to be constructed, extended, improved,
13 maintained, or reconstructed and to use and operate any and all
14 facilities of any kind necessary or convenient to the exercise of
15 the powers, rights, privileges, and functions conferred by this
16 Act;

17 (i) [~~(k)~~] to sue and be sued in its corporate name;

18 (j) [~~(l)~~] to make by-laws for the management and regulation
19 of its affairs conformably to the powers and purposes herein
20 conferred and consistent with the Constitution of this State;

21 (k) [~~(m)~~] to make rules and regulations and to prescribe
22 penalties for the breach of any rule or regulation of the District,
23 which penalties shall not exceed fines of more than Two Hundred
24 Dollars (\$200), or imprisonment for more than thirty (30) days, or
25 may provide both such fine and such imprisonment. The penalties
26 hereby authorized shall be in addition to any other penalties
27 provided by the laws of Texas and may be enforced by complaints

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

1 (l) [~~(n)~~] to adopt, use, and alter a corporate seal;

2 (m) [~~(o)~~] to appoint agents and employees; prescribe their
3 duties and fix their compensation;

4 (n) [~~(p)~~] to make contracts and execute instruments
5 necessary or convenient to the exercise of the powers, rights,
6 privileges, and functions herein conferred;

7 (o) [~~(q)~~] to borrow money for its authorized purposes, to
8 accept grants or loans or allotments from the United States
9 Government or any of its agencies, or others, and in connection with
10 any such grants, loans, or allotments to enter into such agreements
11 as may be required to make them effective, and for the purpose of
12 obtaining funds to issue its negotiable tax bonds and its
13 negotiable revenue bonds in the manner and to the extent
14 hereinafter provided;

15 (p) [~~(r)~~] to operate and maintain with consent of the
16 governing body of any city, town, or political subdivision located
17 in the District any works, plants, or facilities deemed necessary
18 or convenient to the accomplishment of the purposes for which the
19 District is created;

20 (q) [~~(s)~~] to enter into planning agreements with the Texas
21 Water Development Board under Subchapter C, Chapter 16, Water Code,
22 for the purpose of conducting studies necessary to maintain retail
23 water supply services to customers within the boundaries of the
24 District; and

25 (r) [~~(t)~~] to cooperate with and support local fire
26 departments and economic development activities sponsored by local
27 entities within the District that use water and water resources

1 provided, or to be provided, by the District.

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

5 Sec. 3A. The District may not:

6 (1) collect, transport, process, dispose of, store, or
7 control domestic, industrial, or communal wastes as provided by
8 Section 65.201(b)(2), Water Code, or other law;

9 (2) alter land elevation in the District as provided
10 by Section 65.201(b)(5), Water Code, or other law;

11 (3) provide fire-fighting services for inhabitants of
12 the District as provided by Section 65.201(b)(6), Water Code, or
13 other law; or

14 (4) collect solid waste or purchase, construct,
15 acquire, own, operate, maintain, repair, improve, or extend a solid
16 waste collection and disposal system as provided by Section 65.203,
17 Water Code, or other law.

18 SECTION 4. Chapter 306, Acts of the 49th Legislature,
19 Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil
20 Statutes), is amended by adding Section 3B to read as follows:

21 Sec. 3B. (a) In this section, "facility" means a building
22 or structure of any kind, including an underground facility. The
23 term does not include a pipe.

24 (b) Section 49.222, Water Code, applies to the District,
25 except that the District may not exercise the power of eminent
26 domain outside the District boundaries to:

27 (1) construct or maintain a District facility; or

1 (2) acquire a recreational easement.

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

5 Sec. 4. [~~a~~] The powers vested in and the duties devolved
6 upon the District in this Act are subject to the continuing right of
7 supervision of the flow waters of its rivers and streams [~~and the~~
8 ~~impounding of flood waters,~~] by the Texas Commission on
9 Environmental Quality [~~State Board of Water Engineers~~], and in
10 instances where the plans of the District provide for the use of
11 water from any rivers or streams [~~or the impounding of any flood~~
12 ~~waters thereof~~], it shall submit such plans to the Texas Commission
13 on Environmental Quality [~~State Board of Water Engineers~~] for
14 approval as to efficacy and shall make application for a permit as
15 required by law[~~+~~

16 [~~(b) Where the general plans of the District provide for the~~
17 ~~disposal of sewage and wastes, such plans shall be submitted to the~~
18 ~~State Board of Water Engineers for approval as to compliance with~~
19 ~~the provisions of Article 848a of the Penal Code of Texas].~~

20 SECTION 6. Section 13, Chapter 306, Acts of the 49th
21 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
22 Texas Civil Statutes), is amended to read as follows:

23 Sec. 13. In furtherance of the purposes for which it is
24 created and to provide funds for the construction or purchase,
25 improvement, extension, repair, replacement or betterment of
26 waterworks systems[~~, storm sewers, sanitary sewer systems, sewage~~
27 ~~disposal plants~~] or any other improvements, works, plants or

1 facilities deemed necessary to accomplish any part of its plans and
2 purposes the District shall have the power to borrow money and to
3 evidence such loan by the authorization, issuance and sale of its
4 negotiable bonds, provided that it shall not be authorized, to
5 issue bonds or incur any form of continuing obligations or
6 indebtedness for said purposes which would be payable from the
7 proceeds of taxes levied against lands or properties within the
8 District, unless the proposition for the incurring of such
9 indebtedness shall have been submitted to the qualified property
10 taxpaying voters of the District and approved by a majority of such
11 electors voting thereon. The Board of Directors is authorized to
12 call an election for the issuance of any such bonds and the levy of a
13 tax in payment thereof and such proposition shall be submitted in
14 the manner provided by Chapter 1, Title 22 of the Revised Civil
15 Statutes of Texas, 1925, relating to County and City bond
16 elections, to the qualified property taxpaying resident voters of
17 the District who have duly rendered property for taxation. If at
18 such election a majority of the legal votes cast are favorable to
19 the issuance of the bonds they may be issued to mature serially or
20 otherwise, as may be determined by the Board, not more than forty
21 (40) years from their date, with or without option of prior
22 redemption, and if an option of redemption prior to maturity is
23 reserved it shall be plainly so stated in the resolution
24 authorizing such bonds and in the face of each bond, together with
25 the prices at which and the terms under which the bonds may be so
26 redeemed; provided the price so fixed for prior redemption shall
27 never exceed one hundred and five per cent (105%) of the principal

1 amount of such bonds, plus the interest accrued to date of
2 redemption, and such bonds shall bear interest at not exceeding
3 five per cent (5%) per annum. All bonds issued under the provisions
4 of this Act shall be executed in the name of the District, shall be
5 signed by the President and Secretary of the Board of Directors and
6 shall have the official seal of the District impressed thereon. The
7 tax authorized to be levied in payment of the bonds shall be levied
8 upon all taxable property situated in said District in an amount and
9 at a rate sufficient to pay the interest as it accrues and create a
10 sinking fund to retire said bonds as such bonds mature, and such tax
11 shall be assessed and collected annually.

12 SECTION 7. Section 14, Chapter 306, Acts of the 49th
13 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
14 Texas Civil Statutes), is amended to read as follows:

15 Sec. 14. The District is hereby authorized to issue its
16 negotiable bonds, secured only by pledge of net revenues to be
17 derived from the operation of any of its works, plants or
18 facilities, and in such amounts as may be authorized by the
19 Directors, to provide funds for the construction or purchase,
20 improvement, extension, repair, replacement or betterment of
21 waterworks systems [~~storm sewers, sanitary sewer systems, sewage~~
22 ~~disposal plants~~] or any other improvements, works, plants or
23 facilities deemed by the Board of Directors as essential or
24 convenient for the accomplishment of its purposes. The term "net
25 revenue" as used in this Act shall be construed to mean the revenues
26 of the District from whatever source derived, except taxes,
27 remaining after the payment of all costs of collection of such

1 revenues, all costs of operation and maintenance, depreciation and
2 necessary replacements of such works, plants and facilities, owned
3 or acquired or controlled by the District. All such bonds shall be
4 authorized by resolution of the Board of Directors, concurred in by
5 a majority of the members of the Board without the necessity of an
6 election, and shall bear interest at not exceeding five per cent
7 (5%) per annum, mature serially or otherwise not more than forty
8 (40) years from their date, be payable at such place or places as
9 such resolution shall provide, be signed by the President and
10 Secretary of the Board and have the seal of the District affixed
11 thereto. Such bonds are sometimes referred to in this Act as
12 "Revenue Bonds". In the discretion of the Board of Directors it may
13 defer the issuance of Revenue Bonds on any occasion until the
14 proposition for the issuance of such bonds may be submitted at an
15 election, which shall be called and held in the manner provided in
16 Section 13 hereof for the voting of tax bonds, and unless such
17 election shall have resulted favorably to the issuance of the
18 Revenue Bonds. The resolution authorizing any such bonds may
19 contain provisions which shall be a part of the contract between the
20 District and the bondholders. Such resolution may include among
21 other provisions any of the following:

22 (a) Reserving the right to redeem such bonds prior to
23 maturity at such time or times, in such amounts and at such prices
24 as may be thus provided, but in no event shall the price so fixed for
25 prior redemption ever exceed one hundred and five per cent (105%) of
26 the principal amount of such bonds plus accrued interest;

27 (b) providing for the setting aside of sinking funds or

1 reserve funds and the regulation for disposition thereof;

2 (c) pledging to secure the payment thereof all or any part
3 of the net revenues thereafter received by the District in respect
4 of the property, real, personal, or mixed, acquired or to be
5 acquired or constructed with such bonds or the proceeds thereof, or
6 all of any part of the net revenues thereafter received by the
7 District from whatsoever source, except taxes;

8 (d) prescribing the purposes to which the proceeds of such
9 bonds or any bonds thereafter to be issued may be applied;

10 (e) covenant to fix and collect fees, rates and charges for
11 use of works, plants and facilities sufficient to produce net
12 revenues adequate to pay such bonds, plus interest, and prescribing
13 the use and disposition of all District revenues except taxes;

14 (f) prescribing limitations upon the issuance of additional
15 revenue bonds and upon all agreements which may be made between the
16 District and the purchasers and subsequent holders of bonds to be
17 issued subsequently;

18 (g) providing for the construction, extension, improvement,
19 operation, maintenance, depreciation, replacement and betterment
20 of the properties of the District and carrying insurance of any and
21 all kinds upon all or part of its properties;

22 (h) fixing the procedure, by which any contract with the
23 bondholders may be amended and for the execution and delivery of an
24 indenture or agreement for the benefit of the holders of such bonds,
25 which indenture or agreement may define "events of default" and
26 prescribe the remedies therefor and contain such other items,
27 conditions and covenants as may be agreed upon that are not

1 inconsistent with the provisions of this Act or the Constitution of
2 the State of Texas.

3 SECTION 8. (a) The Bexar Metropolitan Water District shall
4 divest itself of any facilities and equipment constructed,
5 acquired, or maintained by the district to provide flood control,
6 wastewater, or solid waste services and shall arrange for the
7 orderly transfer to another provider of the accounts of any
8 customers and service to those customers not later than the first
9 anniversary of the effective date of this Act.

10 (b) Notwithstanding Subsection (a) of this section, if the
11 district has issued revenue bonds, notes, or other obligations in
12 connection with the facilities or equipment described by Subsection
13 (a) of this section, the district may not transfer the facilities or
14 equipment until the obligations have been paid off unless the
15 provider to whom the facilities or equipment are transferred
16 assumes the obligations or the holders of the obligations approve
17 the transfer.

18 (c) The changes in law made by Section 3, Acts of the 49th
19 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
20 Texas Civil Statutes), as amended by this Act, and Section 3B,
21 Chapter 306, Acts of the 49th Legislature, Regular Session, 1945
22 (Article 8280-126, Vernon's Texas Civil Statutes), as added by this
23 Act, do not affect an eminent domain action initiated before the
24 effective date of this Act. Such an action is governed by the law in
25 effect when the action was initiated, and the former law is
26 continued in effect for that purpose.

27 SECTION 9. This Act takes effect September 1, 2005.