

By: Mowery

H.B. No. 3576

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the powers, duties, administration, governance, and
3 functions of the Benbrook Water and Sewer Authority.

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

5 SECTION 1. Section 1, Chapter 123, Acts of the 54th
6 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
7 Texas Civil Statutes), is amended to read as follows:

8 Sec. 1. By virtue of Article XVI, Section 59, of the Texas
9 Constitution, there is hereby created a conservation and
10 reclamation district to be known as "Benbrook Water [~~and Sewer~~]
11 Authority," (hereinafter called "Authority") which shall be a
12 governmental agency and a body politic and corporate.

13 SECTION 2. Sections 3(b), (c), and (f), Chapter 123, Acts of
14 the 54th Legislature, Regular Session, 1955 (Article 8280-163,
15 Vernon's Texas Civil Statutes), are amended to read as follows:

16 (b) Immediately after this Act becomes effective, the Mayor
17 of the City of Benbrook shall appoint the first Board of Directors
18 or, within his discretion, he may order the holding of an election
19 in the Authority for the purpose of electing the first Board of
20 Directors. If an election is ordered, notice of the election shall
21 be published in a newspaper published in the City of Fort Worth one
22 (1) time at least fifteen (15) days before the election. The
23 election order shall state the time, place and purpose of the
24 election, and the Mayor shall appoint a presiding judge who shall

1 appoint an [~~as~~] assistant judge and two (2) clerks to assist in
2 holding the election. Only qualified voters residing in the
3 Authority who own taxable property therein shall be entitled to
4 vote at said election. The five (5) candidates receiving the
5 highest number of votes shall be declared elected. The returns of
6 the election shall be made to and canvassed by the Mayor, who shall
7 enter an order declaring the result of the election. Two (2) of the
8 Directors thus appointed or elected shall serve until the first
9 Tuesday in April, 1956, and three (3) shall serve until the first
10 Tuesday in April, 1957. The Directors who shall serve for the short
11 term and those who shall serve for the long term shall be determined
12 by lot. Directors appointed by the Mayor shall serve until the next
13 regular election as provided in (c) below.

14 (c) A regular election for the election of Directors shall
15 be held on the first Saturday in April of each year after 1969 and
16 before 1994. After 1993, regular elections for the election of
17 Directors must be held on a uniform date and are governed by
18 Chapters 49 and 51, Water Code [~~beginning in 1970. Two (2)~~
19 ~~Directors shall be elected in each even numbered year and three (3)~~
20 ~~in each odd numbered year~~]. The regular elections shall be called
21 by the Board of Directors. The Board shall appoint the presiding
22 judge who shall appoint an assistant judge and at least two (2)
23 clerks. Notice shall be given the same as is provided for the first
24 election of Directors. Only qualified voters residing in the
25 Authority are entitled to vote at an election of Directors. After
26 1969 and before 1997, in even-numbered [~~In even numbered~~] years the
27 two (2) candidates receiving the highest number of votes shall be

1 elected to serve for a period of two years and in odd-numbered [~~odd~~
2 ~~numbered~~] years the three (3) candidates receiving the highest
3 number of votes shall be elected to serve for two (2) years. Three
4 Directors shall be elected in 1997, and the three candidates
5 receiving the highest number of votes in that year shall be elected
6 for a term of three years. In the election of Directors held in 2000
7 and in every subsequent election at which three Directors are
8 elected, the three candidates receiving the highest number of votes
9 shall be elected for a term of four years. In the election of
10 Directors held in 1998 and in every subsequent election at which two
11 Directors are elected, the two candidates receiving the highest
12 number of votes shall be elected for a term of four years.

13 (f) Section 49.060, Water Code, governs a Director's
14 entitlement to fees of office and reimbursement of expenses, except
15 that the Board by resolution may establish a lower fee of office
16 than the fee authorized by that section [~~A Director is entitled to~~
17 ~~receive a fee of office of not more than Twenty-five Dollars (\$25) a~~
18 ~~day for each day of service necessary to discharge his duties as~~
19 ~~Director. The fees paid may not exceed One Hundred Dollars (\$100)~~
20 ~~in any one (1) month regardless of the number of days of service~~
21 ~~during that month. The Board may approve reimbursement to a~~
22 ~~Director for travel or other expenses incurred by him while acting~~
23 ~~on behalf of the Authority if that Director presents a verified~~
24 ~~statement of those expenses to the Board and a majority of the other~~
25 ~~Directors vote to approve the reimbursement].~~

26 SECTION 3. Section 5, Chapter 123, Acts of the 54th
27 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's

1 Texas Civil Statutes), is amended to read as follows:

2 Sec. 5. The Authority is hereby empowered (a) to develop,
3 construct or purchase dams, reservoirs, underground and other
4 sources of water. The Authority is empowered to construct or
5 purchase all works, plants, and other facilities necessary or
6 useful for the purpose of providing a source of water supply and
7 storing, processing such water and transporting and distributing it
8 for municipal, domestic and industrial purposes. The Authority
9 shall at all times have power to develop or purchase additional
10 underground or other sources of water and to improve, enlarge and
11 extend its water system. The Authority may regulate the spacing and
12 production of water wells drilled within its boundaries in the
13 manner provided by Section 36.116(a), Water Code, to prevent
14 interference with the Authority's water wells or other existing
15 wells, to protect water quality, or to minimize as far as
16 practicable the drawdown of the water table of the groundwater used
17 by the Authority. The Authority is also authorized to make
18 contracts for the purchase of water; (b) in order to preserve and
19 protect the purity of the waters of the State and of the Authority
20 and conserve and reclaim said waters for beneficial use by the
21 inhabitants of the Authority, to require that a person obtain a
22 permit from the Authority before drilling, equipping, completing,
23 altering, or operating a well in the Authority's boundaries. The
24 Authority may not unreasonably withhold issuance of a permit if an
25 applicant demonstrates by competent sworn testimony or
26 documentation that the proposed water well will not unreasonably
27 affect existing groundwater resources or the beneficial use of

1 groundwater by the Authority or other existing well owners, that
2 the applicant agrees to use reasonable diligence to protect
3 groundwater quality, including compliance with Chapter 1901,
4 Occupations Code, and any rules adopted under that chapter, that
5 the proposed well construction and operation activities will not
6 threaten or otherwise impact the groundwater supplies of the
7 Authority, and that the application complies with the well spacing
8 and production requirements of the Authority; and (c) in order to
9 preserve and protect the purity of the waters of this state and of
10 the Authority and conserve and reclaim those waters for beneficial
11 use by the inhabitants of the Authority, to provide all plants,
12 works, facilities and appliances incident to or helpful or
13 necessary to the collection, transportation, processing, disposal
14 and control of all domestic, industrial or communal wastes, whether
15 of fluids, solids or composites. The Authority may adopt rules to
16 implement this section.

17 SECTION 4. Section 6, Chapter 123, Acts of the 54th
18 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
19 Texas Civil Statutes), is amended to read as follows:

20 Sec. 6. For the purpose of carrying out any power or
21 authority conferred by this Act the Authority shall have the right
22 to acquire land and easements, by condemnation in the manner
23 provided by Chapter 21, Property Code, and Section 49.222, Water
24 Code [~~Title 52, Revised Civil Statutes, as amended~~], relating to
25 eminent domain. The amount of and character of interest in land and
26 easements thus to be acquired shall be determined by the Board of
27 Directors. In the event that the Authority, in the exercise of the

1 power of eminent domain or power of relocation, or any other power
2 granted hereunder, makes necessary the relocation, raising,
3 re-routing or changing the grade of, or altering the construction
4 of any highway, railroad, electric transmission line or pipeline,
5 or telephone or telegraph properties and facilities, all such
6 necessary relocation, raising, re-routing, changing of grade or
7 alteration of construction shall be accomplished at the sole
8 expense of the Authority.

9 SECTION 5. Section 8(b), Chapter 123, Acts of the 54th
10 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
11 Texas Civil Statutes), is amended to read as follows:

12 (b) Such bonds shall be authorized by resolution of the
13 Board of Directors without an election, if payable wholly from
14 revenues, and shall be issued in the name of the Authority, signed
15 by the president, attested by the secretary and have the seal of the
16 Authority impressed thereon or a facsimile seal printed or
17 lithographed thereon. One of the signatures thus required on the
18 bonds may be a facsimile signature, but the other signature shall be
19 manual. They shall mature serially or otherwise in not to exceed
20 forty (40) years and may be sold at a price and under terms
21 determined by the Board of Directors to be the most advantageous
22 reasonably obtainable, provided that the bonds, [~~interest cost to~~
23 ~~the Authority, calculated by the use of standard bond interest~~
24 ~~tables currently in use by insurance companies and investment~~
25 ~~houses does not exceed six per cent (6%) per annum, and] within the
26 discretion of the Board, may be made callable prior to maturity at
27 such times and prices as may be prescribed in the resolution~~

1 authorizing the bonds or in the trust indenture, and may be made
2 registerable as to principal or as to both principal and interest.
3 Any such bonds payable wholly or partly from ad valorem taxes shall
4 be submitted to and authorized by the resident, qualified property
5 taxpaying voters of the Authority. Such election shall be called
6 and held in the manner required by Chapter 25, Acts, Thirty-ninth
7 Legislature, 1925, as amended, relating to elections for the
8 issuance of tax bonds by water control and improvement districts.

9 SECTION 6. Section 13, Chapter 123, Acts of the 54th
10 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
11 Texas Civil Statutes), is amended to read as follows:

12 Sec. 13. The Authority is authorized to enter into
13 contracts with cities and others for supplying services to them.
14 The Authority may also enter into interlocal agreements with cities
15 and others in accordance with Chapter 791, Government Code, to
16 coordinate the respective statutory obligations and powers of each
17 party to the agreement if the Authority determines that entering
18 into an interlocal agreement is beneficial to the Authority. The
19 Authority is also authorized to contract with any city for the
20 rental or leasing of, or for the operation of the water production,
21 water supply, and water supply facilities or sanitary sewer system
22 of such city upon such consideration as the Authority and the city
23 may agree. Any such contract may be upon such terms and for such
24 time as the parties may agree, and it may provide that it shall
25 continue in effect until the bonds specified therein and refunding
26 bonds issued in lieu of such bonds are paid.

27 SECTION 7. Section 17, Chapter 123, Acts of the 54th

1 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
2 Texas Civil Statutes), is amended to read as follows:

3 Sec. 17. The Authority shall have and exercise, and is
4 hereby vested with all of the rights, power and privileges
5 conferred by the General Laws of this State now in effect or
6 hereinafter enacted, applicable to water control and improvement
7 districts created under authority of Section 59, Article 16 of the
8 Constitution, including Chapters 49 and 51, Water Code. If
9 Chapters 49 and 51, Water Code, conflict, Chapter 51 controls.
10 Except as provided by this Act, Chapter 36, Water Code, does not
11 apply to the Authority. To [but to] the extent that the provisions
12 of any General Laws may be in conflict or inconsistent with the
13 provisions of this Act, the provisions hereof shall prevail. All
14 such General Laws are hereby incorporated by reference with the
15 same effect as if incorporated in full in this Act.

16 SECTION 8. Section 3(d) and Section 7, Chapter 123, Acts of
17 the 54th Legislature, Regular Session, 1955 (Article 8280-163,
18 Vernon's Texas Civil Statutes), are repealed.

19 SECTION 9. (a) Any act or proceeding taken by or on behalf
20 of the Benbrook Water and Sewer Authority before the effective date
21 of this Act, including any election, is validated in all respects as
22 if the act or proceeding had occurred as authorized by law.

23 (b) A governmental act or proceeding of the Benbrook Water
24 and Sewer Authority or the Benbrook Water Authority occurring after
25 an act or proceeding validated by this Act may not be held invalid
26 on the ground that the prior act or proceeding, in the absence of
27 this Act, was invalid.

1 (c) Subsections (a) and (b) of this section do not apply to
2 any matter that on the effective date of this Act:

3 (1) is involved in litigation if the litigation
4 ultimately results in the matter being held invalid by a final
5 judgment of a court; or

6 (2) has been held invalid by a final judgment of a
7 court.

8 SECTION 10. (a) The legal notice of the intention to
9 introduce this Act, setting forth the general substance of this
10 Act, has been published as provided by law, and the notice and a
11 copy of this Act have been furnished to all persons, agencies,
12 officials, or entities to which they are required to be furnished
13 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
14 Government Code.

15 (b) The governor, one of the required recipients, has
16 submitted the notice and Act to the Texas Commission on
17 Environmental Quality.

18 (c) The Texas Commission on Environmental Quality has filed
19 its recommendations relating to this Act with the governor, the
20 lieutenant governor, and the speaker of the house of
21 representatives within the required time.

22 (d) All requirements of the constitution and laws of this
23 state and the rules and procedures of the legislature with respect
24 to the notice, introduction, and passage of this Act are fulfilled
25 and accomplished.

26 SECTION 11. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2005.

COMMITTEE AMENDMENT NO. 1

Amend HB 3576 as follows:

On page 4, lines 11 to 17, delete "The Authority may regulate the spacing and production of water wells drilled within its boundaries in the manner provided by Section 36.116(a), Water Code, to prevent interference with the Authority's water wells or other existing wells, to protect water quality, or to minimize as far as practicable the drawdown of the water table of the groundwater used by the Authority." and substitute the following:

"The Authority may regulate the drilling, equipping, completion, location, and production of groundwater wells in the manner in which the City of Benbrook, Texas, could regulate such wells under its home-rule authority or as otherwise provided by this Act."

Puente