

1-1 By: Mowery (Senate Sponsor - Brimer) H.B. No. 3576  
1-2 (In the Senate - Received from the House May 20, 2005;  
1-3 May 20, 2005, read first time and referred to Committee on Natural  
1-4 Resources; May 23, 2005, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 23, 2005, sent to printer.)

1-6 H.B. NO. 3576 RECEIVED WITH ONE HOUSE COMMITTEE AMENDMENT IN THE  
1-7 FORM OF AN ENGROSSED RIDER IN LIEU OF A FULL ENGROSSMENT

1-8 HOUSE COMMITTEE AMENDMENT NO. 1 Puente

1-9 Amend HB 3576 as follows:

1-10 On page 2, lines 53 to 59, delete "The Authority may regulate  
1-11 the spacing and production of water wells drilled within its  
1-12 boundaries in the manner provided by Section 36.116(a), Water Code,  
1-13 to prevent interference with the Authority's water wells or other  
1-14 existing wells, to protect water quality, or to minimize as far as  
1-15 practicable the drawdown of the water table of the groundwater used  
1-16 by the Authority." and substitute the following:

1-17 "The Authority may regulate the drilling, equipping,  
1-18 completion, location, and production of groundwater wells in the  
1-19 manner in which the City of Benbrook, Texas, could regulate such  
1-20 wells under its home-rule authority or as otherwise provided  
1-21 by this Act."

1-22 A BILL TO BE ENTITLED  
1-23 AN ACT

1-24 relating to the powers, duties, administration, governance, and  
1-25 functions of the Benbrook Water and Sewer Authority.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 1, Chapter 123, Acts of the 54th  
1-28 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's  
1-29 Texas Civil Statutes), is amended to read as follows:

1-30 Sec. 1. By virtue of Article XVI, Section 59, of the Texas  
1-31 Constitution, there is hereby created a conservation and  
1-32 reclamation district to be known as "Benbrook Water [~~and Sewer~~]  
1-33 Authority," (hereinafter called "Authority") which shall be a  
1-34 governmental agency and a body politic and corporate.

1-35 SECTION 2. Sections 3(b), (c), and (f), Chapter 123, Acts of  
1-36 the 54th Legislature, Regular Session, 1955 (Article 8280-163,  
1-37 Vernon's Texas Civil Statutes), are amended to read as follows:

1-38 (b) Immediately after this Act becomes effective, the Mayor  
1-39 of the City of Benbrook shall appoint the first Board of Directors  
1-40 or, within his discretion, he may order the holding of an election  
1-41 in the Authority for the purpose of electing the first Board of  
1-42 Directors. If an election is ordered, notice of the election shall  
1-43 be published in a newspaper published in the City of Fort Worth one  
1-44 (1) time at least fifteen (15) days before the election. The  
1-45 election order shall state the time, place and purpose of the  
1-46 election, and the Mayor shall appoint a presiding judge who shall  
1-47 appoint an [~~as~~] assistant judge and two (2) clerks to assist in  
1-48 holding the election. Only qualified voters residing in the  
1-49 Authority who own taxable property therein shall be entitled to  
1-50 vote at said election. The five (5) candidates receiving the  
1-51 highest number of votes shall be declared elected. The returns of  
1-52 the election shall be made to and canvassed by the Mayor, who shall  
1-53 enter an order declaring the result of the election. Two (2) of the  
1-54 Directors thus appointed or elected shall serve until the first  
1-55 Tuesday in April, 1956, and three (3) shall serve until the first  
1-56 Tuesday in April, 1957. The Directors who shall serve for the short  
1-57 term and those who shall serve for the long term shall be determined  
1-58 by lot. Directors appointed by the Mayor shall serve until the next

2-1 regular election as provided in (c) below.

2-2 (c) A regular election for the election of Directors shall  
 2-3 be held on the first Saturday in April of each year after 1969 and  
 2-4 before 1994. After 1993, regular elections for the election of  
 2-5 Directors must be held on a uniform date and are governed by  
 2-6 Chapters 49 and 51, Water Code [beginning in 1970. Two (2)  
 2-7 Directors shall be elected in each even numbered year and three (3)  
 2-8 in each odd numbered year]. The regular elections shall be called  
 2-9 by the Board of Directors. The Board shall appoint the presiding  
 2-10 judge who shall appoint an assistant judge and at least two (2)  
 2-11 clerks. Notice shall be given the same as is provided for the first  
 2-12 election of Directors. Only qualified voters residing in the  
 2-13 Authority are entitled to vote at an election of Directors. After  
 2-14 1969 and before 1997, in even-numbered [In even numbered] years the  
 2-15 two (2) candidates receiving the highest number of votes shall be  
 2-16 elected to serve for a period of two years and in odd-numbered [odd  
 2-17 numbered] years the three (3) candidates receiving the highest  
 2-18 number of votes shall be elected to serve for two (2) years. Three  
 2-19 Directors shall be elected in 1997, and the three candidates  
 2-20 receiving the highest number of votes in that year shall be elected  
 2-21 for a term of three years. In the election of Directors held in 2000  
 2-22 and in every subsequent election at which three Directors are  
 2-23 elected, the three candidates receiving the highest number of votes  
 2-24 shall be elected for a term of four years. In the election of  
 2-25 Directors held in 1998 and in every subsequent election at which two  
 2-26 Directors are elected, the two candidates receiving the highest  
 2-27 number of votes shall be elected for a term of four years.

2-28 (f) Section 49.060, Water Code, governs a Director's  
 2-29 entitlement to fees of office and reimbursement of expenses, except  
 2-30 that the Board by resolution may establish a lower fee of office  
 2-31 than the fee authorized by that section [A Director is entitled to  
 2-32 receive a fee of office of not more than Twenty-five Dollars (\$25)  
 2-33 per day for each day of service necessary to discharge his duties as  
 2-34 Director. The fees paid may not exceed One Hundred Dollars (\$100)  
 2-35 in any one (1) month regardless of the number of days of service  
 2-36 during that month. The Board may approve reimbursement to a  
 2-37 Director for travel or other expenses incurred by him while acting  
 2-38 on behalf of the Authority if that Director presents a verified  
 2-39 statement of those expenses to the Board and a majority of the other  
 2-40 Directors vote to approve the reimbursement].

2-41 SECTION 3. Section 5, Chapter 123, Acts of the 54th  
 2-42 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's  
 2-43 Texas Civil Statutes), is amended to read as follows:

2-44 Sec. 5. The Authority is hereby empowered (a) to develop,  
 2-45 construct or purchase dams, reservoirs, underground and other  
 2-46 sources of water. The Authority is empowered to construct or  
 2-47 purchase all works, plants, and other facilities necessary or  
 2-48 useful for the purpose of providing a source of water supply and  
 2-49 storing, processing such water and transporting and distributing it  
 2-50 for municipal, domestic and industrial purposes. The Authority  
 2-51 shall at all times have power to develop or purchase additional  
 2-52 underground or other sources of water and to improve, enlarge and  
 2-53 extend its water system. The Authority may regulate the spacing and  
 2-54 production of water wells drilled within its boundaries in the  
 2-55 manner provided by Section 36.116(a), Water Code, to prevent  
 2-56 interference with the Authority's water wells or other existing  
 2-57 wells, to protect water quality, or to minimize as far as  
 2-58 practicable the drawdown of the water table of the groundwater used  
 2-59 by the Authority. The Authority is also authorized to make  
 2-60 contracts for the purchase of water; (b) in order to preserve and  
 2-61 protect the purity of the waters of the State and of the Authority  
 2-62 and conserve and reclaim said waters for beneficial use by the  
 2-63 inhabitants of the Authority, to require that a person obtain a  
 2-64 permit from the Authority before drilling, equipping, completing,  
 2-65 altering, or operating a well in the Authority's boundaries. The  
 2-66 Authority may not unreasonably withhold issuance of a permit if an  
 2-67 applicant demonstrates by competent sworn testimony or  
 2-68 documentation that the proposed water well will not unreasonably  
 2-69 affect existing groundwater resources or the beneficial use of

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

3-17 SECTION 4. Section 6, Chapter 123, Acts of the 54th  
 3-18 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's  
 3-19 Texas Civil Statutes), is amended to read as follows:

3-20 Sec. 6. For the purpose of carrying out any power or  
 3-21 authority conferred by this Act the Authority shall have the right  
 3-22 to acquire land and easements, by condemnation in the manner  
 3-23 provided by Chapter 21, Property Code, and Section 49.222, Water  
 3-24 Code [Title 52, Revised Civil Statutes, as amended], relating to  
 3-25 eminent domain. The amount of and character of interest in land and  
 3-26 easements thus to be acquired shall be determined by the Board of  
 3-27 Directors. In the event that the Authority, in the exercise of the  
 3-28 power of eminent domain or power of relocation, or any other power  
 3-29 granted hereunder, makes necessary the relocation, raising,  
 3-30 re-routing or changing the grade of, or altering the construction  
 3-31 of any highway, railroad, electric transmission line or pipeline,  
 3-32 or telephone or telegraph properties and facilities, all such  
 3-33 necessary relocation, raising, re-routing, changing of grade or  
 3-34 alteration of construction shall be accomplished at the sole  
 3-35 expense of the Authority.

3-36 SECTION 5. Section 8(b), Chapter 123, Acts of the 54th  
 3-37 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's  
 3-38 Texas Civil Statutes), is amended to read as follows:

3-39 (b) Such bonds shall be authorized by resolution of the  
 3-40 Board of Directors without an election, if payable wholly from  
 3-41 revenues, and shall be issued in the name of the Authority, signed  
 3-42 by the president, attested by the secretary and have the seal of the  
 3-43 Authority impressed thereon or a facsimile seal printed or  
 3-44 lithographed thereon. One of the signatures thus required on the  
 3-45 bonds may be a facsimile signature, but the other signature shall be  
 3-46 manual. They shall mature serially or otherwise in not to exceed  
 3-47 forty (40) years and may be sold at a price and under terms  
 3-48 determined by the Board of Directors to be the most advantageous  
 3-49 reasonably obtainable, provided that the bonds, [interest cost to  
 3-50 the Authority, calculated by the use of standard bond interest  
 3-51 tables currently in use by insurance companies and investment  
 3-52 houses does not exceed six per cent (6%) per annum, and] within the  
 3-53 discretion of the Board, may be made callable prior to maturity at  
 3-54 such times and prices as may be prescribed in the resolution  
 3-55 authorizing the bonds or in the trust indenture, and may be made  
 3-56 registerable as to principal or as to both principal and interest.  
 3-57 Any such bonds payable wholly or partly from ad valorem taxes shall  
 3-58 be submitted to and authorized by the resident, qualified property  
 3-59 taxpaying voters of the Authority. Such election shall be called  
 3-60 and held in the manner required by Chapter 25, Acts, Thirty-ninth  
 3-61 Legislature, 1925, as amended, relating to elections for the  
 3-62 issuance of tax bonds by water control and improvement districts.

3-63 SECTION 6. Section 13, Chapter 123, Acts of the 54th  
 3-64 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's  
 3-65 Texas Civil Statutes), is amended to read as follows:

3-66 Sec. 13. The Authority is authorized to enter into  
 3-67 contracts with cities and others for supplying services to them.  
 3-68 The Authority may also enter into interlocal agreements with cities  
 3-69 and others in accordance with Chapter 791, Government Code, to

4-1 coordinate the respective statutory obligations and powers of each  
 4-2 party to the agreement if the Authority determines that entering  
 4-3 into an interlocal agreement is beneficial to the Authority. The  
 4-4 Authority is also authorized to contract with any city for the  
 4-5 rental or leasing of, or for the operation of the water production,  
 4-6 water supply, and water supply facilities or sanitary sewer system  
 4-7 of such city upon such consideration as the Authority and the city  
 4-8 may agree. Any such contract may be upon such terms and for such  
 4-9 time as the parties may agree, and it may provide that it shall  
 4-10 continue in effect until the bonds specified therein and refunding  
 4-11 bonds issued in lieu of such bonds are paid.

4-12 SECTION 7. Section 17, Chapter 123, Acts of the 54th  
 4-13 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's  
 4-14 Texas Civil Statutes), is amended to read as follows:

4-15 Sec. 17. The Authority shall have and exercise, and is  
 4-16 hereby vested with all of the rights, power and privileges  
 4-17 conferred by the General Laws of this State now in effect or  
 4-18 hereinafter enacted, applicable to water control and improvement  
 4-19 districts created under authority of Section 59, Article 16 of the  
 4-20 Constitution, including Chapters 49 and 51, Water Code. If  
 4-21 Chapters 49 and 51, Water Code, conflict, Chapter 51 controls.  
 4-22 Except as provided by this Act, Chapter 36, Water Code, does not  
 4-23 apply to the Authority. To ~~but to~~ the extent that the provisions  
 4-24 of any General Laws may be in conflict or inconsistent with the  
 4-25 provisions of this Act, the provisions hereof shall prevail. All  
 4-26 such General Laws are hereby incorporated by reference with the  
 4-27 same effect as if incorporated in full in this Act.

4-28 SECTION 8. Section 3(d) and Section 7, Chapter 123, Acts of  
 4-29 the 54th Legislature, Regular Session, 1955 (Article 8280-163,  
 4-30 Vernon's Texas Civil Statutes), are repealed.

4-31 SECTION 9. (a) Any act or proceeding taken by or on behalf  
 4-32 of the Benbrook Water and Sewer Authority before the effective date  
 4-33 of this Act, including any election, is validated in all respects as  
 4-34 if the act or proceeding had occurred as authorized by law.

4-35 (b) A governmental act or proceeding of the Benbrook Water  
 4-36 and Sewer Authority or the Benbrook Water Authority occurring after  
 4-37 an act or proceeding validated by this Act may not be held invalid  
 4-38 on the ground that the prior act or proceeding, in the absence of  
 4-39 this Act, was invalid.

4-40 (c) Subsections (a) and (b) of this section do not apply to  
 4-41 any matter that on the effective date of this Act:

4-42 (1) is involved in litigation if the litigation  
 4-43 ultimately results in the matter being held invalid by a final  
 4-44 judgment of a court; or

4-45 (2) has been held invalid by a final judgment of a  
 4-46 court.

4-47 SECTION 10. (a) The legal notice of the intention to  
 4-48 introduce this Act, setting forth the general substance of this  
 4-49 Act, has been published as provided by law, and the notice and a  
 4-50 copy of this Act have been furnished to all persons, agencies,  
 4-51 officials, or entities to which they are required to be furnished  
 4-52 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
 4-53 Government Code.

4-54 (b) The governor, one of the required recipients, has  
 4-55 submitted the notice and Act to the Texas Commission on  
 4-56 Environmental Quality.

4-57 (c) The Texas Commission on Environmental Quality has filed  
 4-58 its recommendations relating to this Act with the governor, the  
 4-59 lieutenant governor, and the speaker of the house of  
 4-60 representatives within the required time.

4-61 (d) All requirements of the constitution and laws of this  
 4-62 state and the rules and procedures of the legislature with respect  
 4-63 to the notice, introduction, and passage of this Act are fulfilled  
 4-64 and accomplished.

4-65 SECTION 11. This Act takes effect immediately if it  
 4-66 receives a vote of two-thirds of all the members elected to each  
 4-67 house, as provided by Section 39, Article III, Texas Constitution.  
 4-68 If this Act does not receive the vote necessary for immediate  
 4-69 effect, this Act takes effect September 1, 2005.

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