

1-1 By: Brimer S.B. No. 1876
1-2 (In the Senate - Filed April 21, 2005; April 21, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 2, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; May 2, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the powers, duties, administration, governance, and
1-9 functions of the Benbrook Water and Sewer Authority.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1, Chapter 123, Acts of the 54th
1-12 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
1-13 Texas Civil Statutes), is amended to read as follows:

1-14 Sec. 1. By virtue of Article XVI, Section 59, of the Texas
1-15 Constitution, there is hereby created a conservation and
1-16 reclamation district to be known as "Benbrook Water [~~and Sewer~~]
1-17 Authority," (hereinafter called "Authority") which shall be a
1-18 governmental agency and a body politic and corporate.

1-19 SECTION 2. Subsections (b), (c), and (f), Section 3,
1-20 Chapter 123, Acts of the 54th Legislature, Regular Session, 1955
1-21 (Article 8280-163, Vernon's Texas Civil Statutes), are amended to
1-22 read as follows:

1-23 (b) Immediately after this Act becomes effective, the Mayor
1-24 of the City of Benbrook shall appoint the first Board of Directors
1-25 or, within his discretion, he may order the holding of an election
1-26 in the Authority for the purpose of electing the first Board of
1-27 Directors. If an election is ordered, notice of the election shall
1-28 be published in a newspaper published in the City of Fort Worth one
1-29 (1) time at least fifteen (15) days before the election. The
1-30 election order shall state the time, place and purpose of the
1-31 election, and the Mayor shall appoint a presiding judge who shall
1-32 appoint an [~~as~~] assistant judge and two (2) clerks to assist in
1-33 holding the election. Only qualified voters residing in the
1-34 Authority who own taxable property therein shall be entitled to
1-35 vote at said election. The five (5) candidates receiving the
1-36 highest number of votes shall be declared elected. The returns of
1-37 the election shall be made to and canvassed by the Mayor, who shall
1-38 enter an order declaring the result of the election. Two (2) of the
1-39 Directors thus appointed or elected shall serve until the first
1-40 Tuesday in April, 1956, and three (3) shall serve until the first
1-41 Tuesday in April, 1957. The Directors who shall serve for the short
1-42 term and those who shall serve for the long term shall be determined
1-43 by lot. Directors appointed by the Mayor shall serve until the next
1-44 regular election as provided in (c) below.

1-45 (c) A regular election for the election of Directors shall
1-46 be held on the first Saturday in April of each year after 1969 and
1-47 before 1994. After 1993, regular elections for the election of
1-48 Directors must be held on a uniform date and are governed by
1-49 Chapters 49 and 51, Water Code [beginning in 1970. Two (2)
1-50 Directors shall be elected in each even numbered year and three (3)
1-51 in each odd numbered year]. The regular elections shall be called
1-52 by the Board of Directors. The Board shall appoint the presiding
1-53 judge who shall appoint an assistant judge and at least two (2)
1-54 clerks. Notice shall be given the same as is provided for the first
1-55 election of Directors. Only qualified voters residing in the
1-56 Authority are entitled to vote at an election of Directors. After
1-57 1969 and before 1997, in even-numbered [~~In even numbered~~] years the
1-58 two (2) candidates receiving the highest number of votes shall be
1-59 elected to serve for a period of two years and in odd-numbered [~~odd~~
1-60 numbered] years the three (3) candidates receiving the highest
1-61 number of votes shall be elected to serve for two (2) years. Three
1-62 Directors shall be elected in 1997, and the three candidates
1-63 receiving the highest number of votes in that year shall be elected
1-64 for a term of three years. In the election of Directors held in 2000

2-1 and in every subsequent election at which three Directors are
 2-2 elected, the three candidates receiving the highest number of votes
 2-3 shall be elected for a term of four years. In the election of
 2-4 Directors held in 1998 and in every subsequent election at which two
 2-5 Directors are elected, the two candidates receiving the highest
 2-6 number of votes shall be elected for a term of four years.

2-7 (f) Section 49.060, Water Code, governs a Director's
 2-8 entitlement to fees of office and reimbursement of expenses, except
 2-9 that the Board by resolution may establish a lower fee of office
 2-10 than the fee authorized by that section [~~A Director is entitled to~~
 2-11 ~~receive a fee of office of not more than Twenty-five Dollars (\$25) a~~
 2-12 ~~day for each day of service necessary to discharge his duties as~~
 2-13 ~~Director. The fees paid may not exceed One Hundred Dollars (\$100)~~
 2-14 ~~in any one (1) month regardless of the number of days of service~~
 2-15 ~~during that month. The Board may approve reimbursement to a~~
 2-16 ~~Director for travel or other expenses incurred by him while acting~~
 2-17 ~~on behalf of the Authority if that Director presents a verified~~
 2-18 ~~statement of those expenses to the Board and a majority of the other~~
 2-19 ~~Directors vote to approve the reimbursement].~~

2-20 SECTION 3. Section 5, Chapter 123, Acts of the 54th
 2-21 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
 2-22 Texas Civil Statutes), is amended to read as follows:

2-23 Sec. 5. The Authority is hereby empowered (a) to develop,
 2-24 construct or purchase dams, reservoirs, underground and other
 2-25 sources of water. The Authority is empowered to construct or
 2-26 purchase all works, plants, and other facilities necessary or
 2-27 useful for the purpose of providing a source of water supply and
 2-28 storing, processing such water and transporting and distributing it
 2-29 for municipal, domestic and industrial purposes. The Authority
 2-30 shall at all times have power to develop or purchase additional
 2-31 underground or other sources of water and to improve, enlarge and
 2-32 extend its water system. The Authority may regulate the spacing and
 2-33 production of water wells drilled within its boundaries in the
 2-34 manner provided by Section 36.116(a), Water Code, to prevent
 2-35 interference with the Authority's water wells or other existing
 2-36 wells, to protect water quality, or to minimize as far as
 2-37 practicable the drawdown of the water table of the groundwater used
 2-38 by the Authority. The Authority is also authorized to make
 2-39 contracts for the purchase of water; (b) in order to preserve and
 2-40 protect the purity of the waters of the State and of the Authority
 2-41 and conserve and reclaim said waters for beneficial use by the
 2-42 inhabitants of the Authority, to require that a person obtain a
 2-43 permit from the Authority before drilling, equipping, completing,
 2-44 altering, or operating a well in the Authority's boundaries. The
 2-45 Authority may not unreasonably withhold issuance of a permit if an
 2-46 applicant demonstrates by competent sworn testimony or
 2-47 documentation that the proposed water well will not unreasonably
 2-48 affect existing groundwater resources or the beneficial use of
 2-49 groundwater by the Authority or other existing well owners, that
 2-50 the applicant agrees to use reasonable diligence to protect
 2-51 groundwater quality, including compliance with Chapter 1901,
 2-52 Occupations Code, and any rules adopted under that chapter, that
 2-53 the proposed well construction and operation activities will not
 2-54 threaten or otherwise impact the groundwater supplies of the
 2-55 Authority, and that the application complies with the well spacing
 2-56 and production requirements of the Authority; and (c) in order to
 2-57 preserve and protect the purity of the waters of this state and of
 2-58 the Authority and conserve and reclaim those waters for beneficial
 2-59 use by the inhabitants of the Authority, to provide all plants,
 2-60 works, facilities and appliances incident to or helpful or
 2-61 necessary to the collection, transportation, processing, disposal
 2-62 and control of all domestic, industrial or communal wastes, whether
 2-63 of fluids, solids or composites. The Authority may adopt rules to
 2-64 implement this section.

2-65 SECTION 4. Section 6, Chapter 123, Acts of the 54th
 2-66 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
 2-67 Texas Civil Statutes), is amended to read as follows:

2-68 Sec. 6. For the purpose of carrying out any power or
 2-69 authority conferred by this Act the Authority shall have the right

3-1 to acquire land and easements, by condemnation in the manner
 3-2 provided by Chapter 21, Property Code, and Section 49.222, Water
 3-3 Code [Title 52, Revised Civil Statutes, as amended], relating to
 3-4 eminent domain. The amount of and character of interest in land and
 3-5 easements thus to be acquired shall be determined by the Board of
 3-6 Directors. In the event that the Authority, in the exercise of the
 3-7 power of eminent domain or power of relocation, or any other power
 3-8 granted hereunder, makes necessary the relocation, raising,
 3-9 re-routing or changing the grade of, or altering the construction
 3-10 of any highway, railroad, electric transmission line or pipeline,
 3-11 or telephone or telegraph properties and facilities, all such
 3-12 necessary relocation, raising, re-routing, changing of grade or
 3-13 alteration of construction shall be accomplished at the sole
 3-14 expense of the Authority.

3-15 SECTION 5. Subsection (b), Section 8, Chapter 123, Acts of
 3-16 the 54th Legislature, Regular Session, 1955 (Article 8280-163,
 3-17 Vernon's Texas Civil Statutes), is amended to read as follows:

3-18 (b) Such bonds shall be authorized by resolution of the
 3-19 Board of Directors without an election, if payable wholly from
 3-20 revenues, and shall be issued in the name of the Authority, signed
 3-21 by the president, attested by the secretary and have the seal of the
 3-22 Authority impressed thereon or a facsimile seal printed or
 3-23 lithographed thereon. One of the signatures thus required on the
 3-24 bonds may be a facsimile signature, but the other signature shall be
 3-25 manual. They shall mature serially or otherwise in not to exceed
 3-26 forty (40) years and may be sold at a price and under terms
 3-27 determined by the Board of Directors to be the most advantageous
 3-28 reasonably obtainable, provided that the bonds, ~~[interest cost to~~
 3-29 ~~the Authority, calculated by the use of standard bond interest~~
 3-30 ~~tables currently in use by insurance companies and investment~~
 3-31 ~~houses does not exceed six per cent (6%) per annum, and]~~ within the
 3-32 discretion of the Board, may be made callable prior to maturity at
 3-33 such times and prices as may be prescribed in the resolution
 3-34 authorizing the bonds or in the trust indenture, and may be made
 3-35 registerable as to principal or as to both principal and interest.
 3-36 Any such bonds payable wholly or partly from ad valorem taxes shall
 3-37 be submitted to and authorized by the resident, qualified property
 3-38 taxpaying voters of the Authority. Such election shall be called
 3-39 and held in the manner required by Chapter 25, Acts, Thirty-ninth
 3-40 Legislature, 1925, as amended, relating to elections for the
 3-41 issuance of tax bonds by water control and improvement districts.

3-42 SECTION 6. Section 13, Chapter 123, Acts of the 54th
 3-43 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
 3-44 Texas Civil Statutes), is amended to read as follows:

3-45 Sec. 13. The Authority is authorized to enter into
 3-46 contracts with cities and others for supplying services to them.
 3-47 The Authority may also enter into interlocal agreements with cities
 3-48 and others in accordance with Chapter 791, Government Code, to
 3-49 coordinate the respective statutory obligations and powers of each
 3-50 party to the agreement if the Authority determines that entering
 3-51 into an interlocal agreement is beneficial to the Authority. The
 3-52 Authority is also authorized to contract with any city for the
 3-53 rental or leasing of, or for the operation of the water production,
 3-54 water supply, and water supply facilities or sanitary sewer system
 3-55 of such city upon such consideration as the Authority and the city
 3-56 may agree. Any such contract may be upon such terms and for such
 3-57 time as the parties may agree, and it may provide that it shall
 3-58 continue in effect until the bonds specified therein and refunding
 3-59 bonds issued in lieu of such bonds are paid.

3-60 SECTION 7. Section 17, Chapter 123, Acts of the 54th
 3-61 Legislature, Regular Session, 1955 (Article 8280-163, Vernon's
 3-62 Texas Civil Statutes), is amended to read as follows:

3-63 Sec. 17. The Authority shall have and exercise, and is
 3-64 hereby vested with all of the rights, power and privileges
 3-65 conferred by the General Laws of this State now in effect or
 3-66 hereinafter enacted, applicable to water control and improvement
 3-67 districts created under authority of Section 59, Article 16 of the
 3-68 Constitution, including Chapters 49 and 51, Water Code. If
 3-69 Chapters 49 and 51, Water Code, conflict, Chapter 51 controls.

4-1 Except as provided by this Act, Chapter 36, Water Code, does not
4-2 apply to the Authority. To ~~[but to]~~ the extent that the provisions
4-3 of any General Laws may be in conflict or inconsistent with the
4-4 provisions of this Act, the provisions hereof shall prevail. All
4-5 such General Laws are hereby incorporated by reference with the
4-6 same effect as if incorporated in full in this Act.

4-7 SECTION 8. Subsection (d), Section 3 and Section 7, Chapter
4-8 123, Acts of the 54th Legislature, Regular Session, 1955 (Article
4-9 8280-163, Vernon's Texas Civil Statutes), are repealed.

4-10 SECTION 9. (a) Any act or proceeding taken by or on behalf
4-11 of the Benbrook Water and Sewer Authority before the effective date
4-12 of this Act, including any election, is validated in all respects as
4-13 if the act or proceeding had occurred as authorized by law.

4-14 (b) A governmental act or proceeding of the Benbrook Water
4-15 and Sewer Authority or the Benbrook Water Authority occurring after
4-16 an act or proceeding validated by this Act may not be held invalid
4-17 on the ground that the prior act or proceeding, in the absence of
4-18 this Act, was invalid.

4-19 (c) Subsections (a) and (b) of this section do not apply to
4-20 any matter that on the effective date of this Act:

4-21 (1) is involved in litigation if the litigation
4-22 ultimately results in the matter being held invalid by a final
4-23 judgment of a court; or

4-24 (2) has been held invalid by a final judgment of a
4-25 court.

4-26 SECTION 10. (a) The legal notice of the intention to
4-27 introduce this Act, setting forth the general substance of this
4-28 Act, has been published as provided by law, and the notice and a
4-29 copy of this Act have been furnished to all persons, agencies,
4-30 officials, or entities to which they are required to be furnished
4-31 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4-32 Government Code.

4-33 (b) The governor, one of the required recipients, has
4-34 submitted the notice and Act to the Texas Commission on
4-35 Environmental Quality.

4-36 (c) The Texas Commission on Environmental Quality has filed
4-37 its recommendations relating to this Act with the governor, the
4-38 lieutenant governor, and the speaker of the house of
4-39 representatives within the required time.

4-40 (d) All requirements of the constitution and laws of this
4-41 state and the rules and procedures of the legislature with respect
4-42 to the notice, introduction, and passage of this Act are fulfilled
4-43 and accomplished.

4-44 SECTION 11. This Act takes effect immediately if it
4-45 receives a vote of two-thirds of all the members elected to each
4-46 house, as provided by Section 39, Article III, Texas Constitution.
4-47 If this Act does not receive the vote necessary for immediate
4-48 effect, this Act takes effect September 1, 2005.

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