

By: Puente

H.B. No. 1565

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the governing body, boundaries, and functions of the
3 Bexar Metropolitan Water District.

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

5 SECTION 1. Section 3, Chapter 306, Acts of the 49th
6 Legislature, Regular Session, 1945, is amended to read as follows:

7 Sec. 3. In addition to the powers vested by the Constitution
8 and general laws in such public agency for the greatest practicable
9 measure of the conservation, preservation, and beneficial
10 utilization of its public waters, the power to control and utilize
11 its public waters and to regulate the disposal and the disposal of
12 sewage, waste, and refuse, the District shall have the following
13 general powers:

14 (a) Through every practical and legal means to
15 develop, transport, deliver, distribute, store, and treat water for
16 use within the District, including the storm and flood waters
17 within the District, including the power to cooperate with the
18 United States Government or any agency thereof, or any
19 municipality, public, quasi-public or private agency and to
20 contract, negotiate, and enter into agreements with any one or more
21 of such agencies in effecting such purposes;

22 (b) ~~[to store, control, and conserve storm and flood~~
23 ~~waters of its rivers and streams and to prevent the escape of any~~
24 ~~such waters without first obtaining therefrom a maximum of public~~

1 ~~service, to prevent devastation of property from overflow and to~~
2 ~~protect life and property from uncontrolled flood and storm waters;~~

3 ~~(c)~~ to conserve and distribute waters essential for
4 domestic and other uses by the inhabitants of the District,
5 including necessary water supply for cities and towns situated
6 within the District;

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

14 ~~(e)~~ to provide by purchase, construction, lease,
15 gift, or in any other manner and to operate any and all facilities
16 deemed by the District essential for preserving the purity of all
17 the surface and underground waters of the District for the
18 protection of the health of its inhabitants, and to formulate plans
19 to make and enforce rules and regulations for the effective
20 disposal of any and all sewage wastes, refuse, or residuum, however
21 accumulated; which otherwise would contaminate, pollute, or render
22 unsafe and insanitary the surface and underground waters of the
23 District and which might threaten or impair the health of its
24 inhabitants or which might adversely affect the health of the
25 inhabitants downstream below the District;

26 (d) ~~[(f)]~~ to acquire by purchase, construction,
27 lease, gift, or in any other manner (otherwise than by

1 condemnation) and to maintain, use, and operate any and all
2 property of any kind, real, personal, or mixed, or any interest
3 therein within or without the boundaries of the District deemed by
4 its Board of Directors necessary or convenient to the exercise of
5 the powers, rights, privileges, and functions conferred upon it by
6 this Act;

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

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

26 (g) [~~(i)~~] to make contracts with any person, private
27 corporation, municipal corporation, political subdivision, or the

1 Board of Trustees thereof, operating water distribution facilities
2 for the benefit of a city or town within the District, under which
3 the District may perform services for such parties or such parties
4 may perform services for the District, or under which either may
5 operate all or any part of the facilities of the other, having due
6 regard for the duties and obligations of such parties in the
7 instrument prescribing their or its duties;

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

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

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

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

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

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

27 (m) [~~(o)~~] to appoint agents and employees; prescribe

1 their duties and fix their compensation;

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

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

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

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

23 (r) [~~(t)~~] to cooperate with and support local fire
24 departments and economic development activities sponsored by local
25 entities within the District that use water and water resources
26 provided, or to be provided, by the District.

27 SECTION 2. Section 5A, Chapter 306, Acts of the 49th

1 Legislature, Regular Session, 1945, is amended by adding Subsection
2 (c) to read as follows:

3 (c) The District's boundaries for the purpose of conducting
4 an election are coextensive with the boundaries of Bexar County.

5 SECTION 3. Chapter 306, Acts of the 49th Legislature,
6 Regular Session, 1945, is amended by adding Section 7A and amending
7 Section 9 to read as follows:

8 Sec. 7A. The District is governed by a board of nine
9 directors, composed of:

10 (1) the members of the Commissioners Court of Bexar
11 County;

12 (2) the county judge of Atascosa County, if the
13 District provides services to customers in Atascosa County;

14 (3) the county judge of Comal County, if the District
15 provides services to customers in Comal County;

16 (4) the county judge of Medina County, if the District
17 provides services to customers in Medina County; and

18 (5) the mayor of San Antonio.

19 Sec. 9. The Board of Directors from time to time shall be
20 authorized to make or cause to be made surveys and engineering
21 investigations for the information of the District to facilitate
22 the accomplishment of the purposes for which the District is
23 created, as expressed in the provisions of this Act; and may employ
24 engineers, attorneys and all other technical and non-technical
25 employees or assistants and fix and provide the amount and manner of
26 their compensation, and may provide for payment of expenditures
27 deemed essential to the proper maintenance and administration of

1 the District. Notwithstanding Section 49.060, Water Code, a member
2 ~~[The members]~~ of the Board of Directors is not entitled to receive
3 fees of office ~~[shall receive a per diem of not more than Ten~~
4 ~~Dollars (\$10) per day, for the time actually expended on business of~~
5 ~~the District, together with traveling and other necessary expenses,~~
6 ~~provided that such per diem fee shall not be paid to a Director for~~
7 ~~more than one hundred (100) days in any one year].~~

8 SECTION 4. Chapter 306, Acts of the 49th Legislature,
9 Regular Session, 1945, is amended by adding Section 8A to read as
10 follows:

11 Sec. 8A. (a) The Board of Directors is subject to review
12 under Chapter 325, Government Code (Texas Sunset Act), but may not
13 be abolished under that chapter. The review shall be conducted as
14 if the Board of Directors were scheduled to be abolished September
15 1, 2010.

16 (b) If the legislature does not continue the members of the
17 Board of Directors in office:

18 (1) the Commissioners Court of Bexar County shall hold
19 an election to elect new board members, in accordance with Section
20 5A, on the uniform election date in November 2010; and

21 (2) the terms of the board members expire on the date
22 the election returns are canvassed.

23 SECTION 5. Chapter 306, Acts of the 49th Legislature,
24 Regular Session, 1945, is amended by adding Section 23A to read as
25 follows:

26 Sec. 23A. (a) The District may not charge a customer who
27 receives water services from the District on and after September 1,

1 2007, a residential or commercial water rate that is greater than
2 the rate charged by the District on September 1, 2007. This
3 subsection expires September 1, 2012.

4 (b) If, on or after September 1, 2007, the District
5 contracts with a person to provide water services to District
6 customers and the person with whom the District contracts has water
7 rates lower than the District's, a customer who receives water
8 services from the District on September 1, 2007, and when the
9 contract is in effect is entitled to the water rate charged by the
10 person with whom the District contracts.

11 SECTION 6. Chapter 306, Acts of the 49th Legislature,
12 Regular Session, 1945, is amended by adding Section 27A to read as
13 follows:

14 Sec. 27A. The District may not provide a service to a
15 customer located outside Bexar County unless the customer received
16 services from the District on or before April 4, 2007.

17 SECTION 7. Chapter 306, Acts of the 49th Legislature,
18 Regular Session, 1945, is amended by adding Section 27C to read as
19 follows:

20 Sec. 27C. (a) The District may not terminate without cause
21 an employee who, on May 1, 2007:

22 (1) is vested in the District's retirement plan; and

23 (2) earns an annual salary of \$50,000 or less.

24 (b) An employee described by Subsection (a) of this section
25 who is terminated by the District for cause is entitled to the
26 grievance process available to an employee of Bexar County who is
27 not classified as a civil service employee.

1 SECTION 8. Chapter 306, Acts of the 49th Legislature,
2 Regular Session, 1945, is amended by adding Section 27D to read as
3 follows:

4 Sec. 27D. (a) The District may not employ fewer than 90
5 percent of the number of employees employed by the District on May
6 1, 2007, who earned an annual salary of \$50,000 or less.

7 (b) The District may reduce the number of employees employed
8 by the District who earn an annual salary of \$50,000 or less only
9 through:

10 (1) retirement;

11 (2) voluntary resignation; or

12 (3) termination for cause.

13 (c) An employee terminated by the District for cause is
14 entitled to the grievance process available to an employee of Bexar
15 County who is not classified as a civil service employee.

16 (d) This section expires September 1, 2012.

17 SECTION 9. Chapter 306, Acts of the 49th Legislature,
18 Regular Session, 1945, is amended by adding Section 27E to read as
19 follows:

20 Sec. 27E. (a) The District may not charge a higher water
21 rate than the rate charged by the San Antonio Water System for
22 comparable services.

23 (b) Not later than August 1, 2007, the District shall lower
24 the water rate to the rate charged by the San Antonio Water System
25 for a customer who:

26 (1) received services from the District on or after
27 May 1, 2007; and

1 (2) on or after May 1, 2007, paid a higher rate than
2 the rate paid by a customer of the San Antonio Water System for
3 comparable services.

4 (c) The District may not raise the water rate for a customer
5 to whom Subsection (b) applies.

6 (d) This subsection and Subsections (b) and (c) expire
7 December 1, 2012.

8 SECTION 10. Chapter 306, Acts of the 49th Legislature,
9 Regular Session, 1945, is amended by adding Section 27F to read as
10 follows:

11 Sec. 27F. (a) Bexar County or the District may not
12 transfer, sell, or lease to a public utility the management or
13 assets, including certificates of convenience and necessity and
14 water rights, of the District.

15 (b) This section does not apply to a certificate of
16 convenience and necessity or a non-water rights asset of the
17 District outside of Bexar County.

18 SECTION 11. Chapter 306, Acts of the 49th Legislature,
19 Regular Session, 1945, is amended by adding Section 32 to read as
20 follows:

21 Sec. 32. (a) The District shall permit a customer to pay a
22 bill at one or more retail locations in the District.

23 (b) The District may not close a customer service branch
24 that is in operation on May 1, 2007. This subsection expires May 1,
25 2017.

26 SECTION 12. Section 8, Chapter 306, Acts of the 49th
27 Legislature, Regular Session, 1945, is repealed.

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

8 (b) The governor, one of the required recipients, has
9 submitted the notice and Act to the Texas Commission on
10 Environmental Quality.

11 (c) The Texas Commission on Environmental Quality has filed
12 its recommendations relating to this Act with the governor, the
13 lieutenant governor, and the speaker of the house of
14 representatives within the required time.

15 (d) All requirements of the constitution and laws of this
16 state and the rules and procedures of the legislature with respect
17 to the notice, introduction, and passage of this Act are fulfilled
18 and accomplished.

19 SECTION 14. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2007.