

1 AN ACT

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

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

5 ARTICLE 1

6 SECTION 1.01. Section 3, Chapter 306, Acts of the 49th  
7 Legislature, Regular Session, 1945, is amended to read as follows:

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

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

23 (b) ~~[to store, control, and conserve storm and flood~~  
24 ~~waters of its rivers and streams and to prevent the escape of any~~

1 ~~such waters without first obtaining therefrom a maximum of public~~  
2 ~~service; to prevent devastation of property from overflow and to~~  
3 ~~protect life and property from uncontrolled flood and storm waters;~~

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

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

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

27 (d) ~~(f)~~ to acquire by purchase, construction,

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

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

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

27       (g) [~~(i)~~] to make contracts with any person, private

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 1.02. 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) No later than 120 days after the text of this  
5 section becomes effective, the District shall:

6 (1) produce a report of an assessment of the  
7 operations and maintenance condition of the District;

8 (2) produce a status report of infrastructure  
9 improvements under construction;

10 (3) produce a report addressing the District's  
11 provision of water meeting Texas Commission on Environmental  
12 Quality (TCEQ) pressure and quality standards;

13 (4) provide a report on customer service response  
14 time;

15 (5) produce a report certifying any rate structure  
16 changes approved by the District and documenting a schedule for  
17 future changes to rate structure anticipated by the District; and

18 (6) deliver these reports to the Utilities and  
19 District's section of the TCEQ and the oversight committee.

20 (b) No later than 180 days after the text of this section  
21 becomes effective, the District shall produce an assessment of the  
22 District's financial condition and present it to the Utilities and  
23 District's section of the TCEQ and the oversight committee.

24 (c) No later than 240 days after the text of this section  
25 becomes effective, the District shall:

26 (1) produce a report of necessary improvements to the  
27 system and a schedule for the implementation of those improvements

1 to ensure all service area improvements are included in the Capital  
2 Improvement Plan (CIP) and all service areas have defined Operating  
3 and Management (O&M) projects programmed to repair or replace  
4 existing aged infrastructure;

5 (2) produce a report on the sustainability and  
6 adequacy of the water resources of the District and a plan for  
7 obtaining additional water resources if deficiencies exist; and

8 (3) deliver these reports to the Utilities and  
9 District's section of the TCEQ and the oversight committee.

10 (d) No later than one year after the text of this section  
11 becomes effective, the District shall:

12 (1) produce a report on service delivery improvements  
13 that have been completed and that are in progress;

14 (2) produce a report identifying all service  
15 improvements necessary for the system and a schedule for the  
16 completion of those improvements; and

17 (3) deliver these reports to the Utilities and  
18 District's section of the TCEQ and the oversight committee.

19 (e) No later than eighteen months after the text of this  
20 section becomes effective, the District shall adopt a uniform rate  
21 structure with rates that are equal to or lower than the rates of  
22 other large retail water providers in the region, except that the  
23 District may adopt higher rates if necessary to meet debt service  
24 obligations or debt coverage requirements.

25 SECTION 1.03. Chapter 306, Acts of the 49th Legislature,  
26 Regular Session, 1945, is amended by adding Section 32 to read as  
27 follows:

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

3       (b) The District may not close a customer service branch  
4 that is in operation on June 1, 2007, unless a comparable customer  
5 service branch is opened. This subsection expires September 1,  
6 2012.

7       SECTION 1.04. Chapter 306, Acts of the 49th Legislature,  
8 Regular Session, 1945, is amended by adding Section 27A to read as  
9 follows:

10       Sec. 27A. The District shall submit to the oversight  
11 committee the following:

12               (a) a schedule for achieving the objectives set out in  
13 Section 27D within six months of the date the text of this Section  
14 becomes effective;

15               (b) evidence that the District has completed its  
16 three-year plan of improvements as adopted by the board of  
17 directors of the District prior to the effective date of this Act  
18 within one and one half years from the date the text of this Section  
19 becomes effective;

20               (c) current year audited annual financial statements  
21 indicating the financial condition of the district within thirty  
22 (30) days of completion;

23               (d) a written projection of all rate and fee increases  
24 for three years following the effective date of this Act within six  
25 months of the date the text of this Section becomes effective;

26               (e) a report summarizing the District's efforts to  
27 facilitate transition of service areas outside of Bexar and

1 Atascosa Counties to other qualified local water utility service  
2 providers;

3 (f) any documentation or materials used in conducting  
4 a standard managerial and financial audit; and

5 (g) any other information the oversight committee  
6 requests.

7 SECTION 1.05. Chapter 306, Acts of the 49th Legislature,  
8 Regular Session, 1945, is amended by adding Section 27B to read as  
9 follows:

10 Sec. 27B. (a) The District shall maintain a file on each  
11 complaint received by the District that relates to retail water  
12 service provided by the District. The file must include:

13 (1) the name of the person who filed the complaint,  
14 unless the person requests anonymity;

15 (2) the date the District receives the complaint;

16 (3) the subject matter of the complaint;

17 (4) the name of each person contacted in relation to  
18 the complaint;

19 (5) a summary of the results of the review or  
20 investigation of the complaint; and

21 (6) an explanation of the reason the file was closed,  
22 if the District closed the file without taking action other than  
23 investigating the complaint.

24 (b) The District shall establish and implement procedures  
25 for receiving complaints submitted through the Internet and orally.

26 SECTION 1.06. Chapter 306, Acts of the 49th Legislature,  
27 Regular Session, 1945, is amended by adding Section 27C to read as

1 follows:

2 Sec. 27C. The District shall maintain a rate structure that  
3 promotes and encourages conservation of water and provides for  
4 lower rates for customers using lower quantities of water.

5 SECTION 1.07. Chapter 306, Acts of the 49th Legislature,  
6 Regular Session, 1945, is amended by adding Section 27E to read as  
7 follows:

8 Sec. 27E. The District shall implement an appeal and  
9 grievance process for employees of the District.

10 SECTION 1.08. Chapter 306, Acts of the 49th Legislature,  
11 Regular Session, 1945, is amended by adding Section 27F to read as  
12 follows:

13 Sec. 27F. The legislature finds that:

14 (1) the Texas Commission on Environmental Quality has  
15 continuing jurisdiction over districts created under Section  
16 52(b), Article III, and Section 59, Article XVI, Texas  
17 Constitution;

18 (2) the management and operation of the District  
19 demonstrate the need for an evaluation of the District by an  
20 independent third party such as the commission; and

21 (3) the commission has the expertise and authority  
22 necessary to conduct a thorough evaluation of the District and  
23 initiate actions to improve the management and operations of the  
24 District.

25 SECTION 1.09. Chapter 306, Acts of the 49th Legislature,  
26 Regular Session, 1945, is amended by adding Section 27G to read as  
27 follows:

1       Sec. 27G. (a) Not later than the 30th day after the  
2 effective date of the Act enacting this section, the Texas  
3 Commission on Environmental Quality shall begin an on-site  
4 evaluation of the District. The evaluation must include:

5           (1) a description and analysis of the District's  
6 management structure, policies, practices and procedures, and  
7 recommendations for improving them;

8           (2) a description and analysis of the decision-making  
9 policies and procedures of the board of directors of the District,  
10 and recommendations for improving the policies and procedures;

11           (3) a narrative summary of the District's record of  
12 compliance with applicable state laws and commission rules, and  
13 recommendations for improving the District's record of compliance;

14           (4) a narrative summary and analysis of the financial  
15 policies and practices of the District, including the District's  
16 bonded indebtedness and other forms of debt, and a comparison of the  
17 District's debt to other water purveyors in the area;

18           (5) a description and analysis of the water  
19 rate-setting policies and practices of the District, and  
20 recommendations for improving the policies and practices;

21           (6) a narrative summary of the District's  
22 infrastructure capital improvements budget and a comparison of the  
23 budget with the capital improvements budgets of other major water  
24 purveyors in the area, and recommendations for improving the  
25 District's long-range budget;

26           (7) a compilation and analysis of customer water  
27 service interruptions during the preceding three years that

1 resulted from inadequate infrastructure or other causes, and  
2 recommendations for preventing future service interruptions;

3 (8) a compilation and analysis of incidents in which  
4 contaminated water was supplied to customers of the District during  
5 the preceding three years, a description of measures taken by the  
6 District to prevent contamination, and recommendations for  
7 preventing future contamination; and

8 (9) a calculation of the annual volume of the  
9 District's unaccounted-for water, and recommendations for  
10 preventing future system leaks and related problems.

11 (b) On commencement of the evaluation, the commission shall  
12 specify a time period for completion of the evaluation.

13 (c) The commission may contract with utility management  
14 consultants, accountants, and other persons as necessary to conduct  
15 the evaluation.

16 (d) The commission may require the District to reimburse the  
17 commission for the reasonable cost of conducting the evaluation.

18 (e) The commission shall file copies of the completed  
19 evaluation with the oversight committee.

20 (f) On completion of the evaluation, the commission may  
21 issue orders compelling any appropriate and necessary actions by  
22 the District under Chapter 49, Water Code, and the commission's  
23 rules regulating retail public utilities. If the commission finds  
24 that the District is incapable of operating the utility in a manner  
25 that provides adequate water service to current and future  
26 customers, the commission may include, in the final evaluation, a  
27 recommendation that the oversight committee consider the option of

1 initiating the process of receivership appointment to operate the  
2 utility under Section 13.142, Water Code.

3 ARTICLE 2

4 SECTION 2.01. Chapter 306, Acts of the 49th Legislature,  
5 Regular Session, 1945, is amended by adding Section 33A to read as  
6 follows:

7 Sec. 33A. OVERSIGHT COMMITTEE. (a) In recognition of the  
8 important goal of the state in providing safe and efficient water  
9 supply services to the customers of the District and the necessity  
10 for state oversight and regulation of the District to ensure the  
11 achievement of this goal there is created the Bexar Metropolitan  
12 Water District Oversight Committee.

13 (b) The oversight committee shall monitor the progress of  
14 the district in maintaining a rate structure that conserves water,  
15 provides adequate service to low-income customers, and assists in  
16 creating uniform rates among water utility providers in the region;  
17 the oversight committee also shall monitor the quality of service  
18 provided by the district; monitor the plans by the district to  
19 provide for sustainability of water resources and plan for  
20 infrastructure needs; identify regulatory and statutory barriers  
21 to achievement of the district's goals, and make recommendations to  
22 the Legislature, if necessary; and perform any other oversight  
23 function deemed appropriate by the oversight committee.

24 (c) The oversight committee is comprised of 5 members  
25 appointed to represent the following members:

26 (1) the Senator sponsor of this Act, or, in the event  
27 this Senator cannot serve, a Senator appointed by the Lieutenant

1 Governor;

2 (2) the House author of this Act, or, in the event this  
3 Representative cannot serve, a Representative appointed by the  
4 Speaker of the Texas House of Representatives;

5 (3) one member with special expertise in the operation  
6 of public water utilities appointed by the Governor;

7 (4) one member appointed by the Governor to represent  
8 the public; and

9 (5) a member of the Bexar County Commissioners Court  
10 who represents a precinct in which customers of the District  
11 reside.

12 (d) A member of the oversight committee is not entitled to  
13 receive compensation for service on the oversight committee but is  
14 entitled to reimbursement of the travel expenses incurred by the  
15 member while conducting the business of the oversight committee, as  
16 provided by the General Appropriations Act.

17 (e) The oversight committee shall prepare a comprehensive  
18 report to the House and Senate Natural Resources Committee on its  
19 findings and recommendations concerning the District's ability to  
20 meet service and financial standards and any legislative changes  
21 needed in the District's authority or governance.

22 (f) The District shall provide staff support for the  
23 oversight committee.

24 SECTION 2.02. Subject to approval by the Legislative Audit  
25 Committee for inclusion in the annual audit plan, the state auditor  
26 shall conduct a financial audit of the District upon passage of this  
27 Act and submit the findings from the audit in a written report to

1 the members of the oversight committee, the board of directors of  
2 the District, and the Texas Legislature. The District shall  
3 cooperate and provide assistance and access to all necessary  
4 records, confidential or unconfidential, to the state auditor in  
5 conducting the audit pursuant to this Section. The District shall  
6 reimburse the state auditor for the cost of performing the audit.

7 SECTION 2.03. (a) The legal notice of the intention to  
8 introduce this Act, setting forth the general substance of this  
9 Act, has been published as provided by law, and the notice and a  
10 copy of this Act have been furnished to all persons, agencies,  
11 officials, or entities to which they are required to be furnished  
12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
13 Government Code.

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

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

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

25 SECTION 2.04. Notwithstanding any other provision of this  
26 Act, nothing herein shall impair any Canyon Regional Water  
27 Authority project contract, project financing obligation issued or

1 to be issued wherein the Bexar Metropolitan Water District is a CRWA  
2 member entity project participant.

3 SECTION 2.05. Notwithstanding any other Act enacted during  
4 the 80th Texas Legislature and notwithstanding Sections 311.025 and  
5 312.014, Government Code, this Act prevails over any other Act  
6 relating to or amending Chapter 306, Acts of the 49th Legislature,  
7 Regular Session, 1945.

8 SECTION 2.06. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1565 was passed by the House on April 4, 2007, by the following vote: Yeas 142, Nays 0, 4 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1565 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1565 on May 28, 2007, by the following vote: Yeas 141, Nays 0, 1 present, not voting.

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Chief Clerk of the House

H.B. No. 1565

I certify that H.B. No. 1565 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1565 on May 28, 2007, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor