

By: Swinford

H.B. No. 3559

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration and powers of the Canadian River
3 Municipal Water Authority.

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

5 SECTION 1. Section 5(b), Chapter 243, Acts of the 53rd
6 Legislature, Regular Session, 1953, is amended to read as follows:

7 (b). The Board of Directors shall hold regular meetings, the
8 date thereof to be established in the District's bylaws or by
9 resolution. The President or any three members may call such
10 special meetings as may be necessary in the administration of the
11 District's business, provided that at least five days prior to the
12 meeting date, the Secretary shall have mailed notice thereof to the
13 address which each member shall file with the Secretary. Notices of
14 special meetings may be waived in writing by any Director. The
15 Board of Directors or Board committees may hold meetings by
16 telephone conference call, videoconference call, or through
17 communications over the Internet, in accordance with procedures
18 provided by Subchapter F, Chapter 551, Government Code, if
19 determined to be necessary or convenient by the President or any
20 three members. Each Director shall receive a fee as provided by
21 general law [~~of not more than Fifty (\$50.00) Dollars for each~~
22 ~~attendance at a Board meeting and a fee of not more than Fifty~~
23 ~~(\$50.00) Dollars]~~ for each day devoted to District business [~~other~~
24 ~~than a Board meeting]~~. Each Director is also entitled to

1 reimbursement for actual expenses incurred in carrying out District
2 business, including attending a Board meeting. Payment to a
3 Director for services performed and expenses incurred is subject to
4 the approval of a majority of the Board.

5 SECTION 2. Section 13, Chapter 243, Acts of the 53rd
6 Legislature, Regular Session, 1953, is amended to read as follows:

7 Sec. 13. DISTRICT POWERS. In addition to those herein
8 otherwise mentioned, the District shall be and is hereby authorized
9 to exercise the following powers, rights, privileges and functions:

10 (a) To store, control, conserve, protect, distribute and
11 utilize within or without the District or within or without the
12 state the storm and flood waters and unappropriated flow of the
13 Canadian River and its tributaries, and to prevent the escape of any
14 such waters without first obtaining therefrom a maximum of public
15 benefit, by the construction of a dam or dams across said river and
16 its tributaries, or otherwise, by complying with Chapter 11, Water
17 Code, and in such manner as shall fully recognize and be in harmony
18 with the limitations of use of the waters of said river provided in
19 the "Canadian River Compact" appearing as Chapter 43, Water Code.
20 The District is also empowered to provide by purchase, contract,
21 lease, gift, or in any other lawful manner, and to develop all
22 facilities within or without the District or within or without the
23 state deemed necessary or useful for the purpose of storing,
24 controlling, conserving, protecting, distributing, processing and
25 utilizing such surface water and the transportation thereof to the
26 cities and areas comprising the District for municipal, domestic,
27 industrial and other useful purposes permitted by law.

1 (b) To acquire and develop within or without the District or
2 within or without the state any other available source of surface,
3 storm, flood, underground, or other water supply and to construct,
4 acquire and develop all facilities deemed necessary or useful with
5 respect thereto.

6 (c) To acquire, construct, develop, operate, and maintain
7 any and all property of any kind, real, personal, or mixed, or any
8 interest in property whether within or without the District or
9 within or without the state and to enter into any contracts with any
10 person or legal entity and take all actions necessary or convenient
11 in order to protect and preserve, and to prevent, eliminate,
12 reduce, or minimize the pollution, contamination, or deterioration
13 of the quality of, the water of the Canadian River or any of its
14 tributaries or the water of any other source of water supply to the
15 District in order to facilitate the use of the water for any lawful
16 purpose.

17 (d) To acquire, construct, develop, operate, and maintain
18 any facilities or systems for drilling, pumping, capturing,
19 reducing, intercepting, eliminating, impounding, controlling,
20 using, injecting or otherwise capturing and disposing of brine,
21 brackish water, saltwater, saline water, or other water
22 contaminated by any type of chlorine, sodium, sulfates, or other
23 chemical condition or characteristic detrimental to the quality of
24 the water, whether the source of contaminated water is groundwater
25 or surface water, within or without the District or within or
26 without the state, and whether the facilities or systems are
27 located within or without the District or within or without the

1 state.

2 (e) To acquire or utilize surface or underground water
3 rights and to develop surface or underground water resources in any
4 manner in furtherance of the purposes described in Subsections (c)
5 and (d) of this section.

6 (f) To declare any facilities or system acquired or
7 constructed under Subsections (a) through (e) of this section to be
8 a part of the District's water supply system.

9 (g) To acquire by purchase, construction, lease, gift, or in
10 any other lawful manner, and to maintain, use and operate any and
11 all property of any kind, real, personal or mixed, or any interest
12 therein, within or without the boundaries of the District or within
13 or without the state, necessary or convenient to the exercise of the
14 powers, rights, privileges and functions possessed by the District
15 under this Act.

16 (h) To acquire by condemnation any and all property of any
17 kind, real, personal, or mixed, or any interest therein, within or
18 without the boundaries of the District, necessary or convenient to
19 the exercise of the powers, rights, privileges and functions
20 possessed by the District, in the manner provided by Chapter 21,
21 Property Code, relating to eminent domain. The amount of and
22 character of the property thus to be acquired shall be determined by
23 the Board of Directors, provided that the District shall not have
24 the right to so condemn any property which may be owned by any other
25 political subdivision, city or town; provided, however, that as
26 against persons, firms, and corporations, or receivers or trustees
27 thereof, who have the power of eminent domain, the fee title may not

1 be condemned, but the District may condemn only an easement. It is
2 specifically provided, however, that the District does not have the
3 authority to condemn underground water rights.

4 (i) To sell or otherwise dispose of any surplus property of
5 any kind, real, personal, or mixed, or any interest therein, which
6 shall not be necessary to the operation of the District in
7 accordance with general law applicable to a municipality or to a
8 district created under Section 59, Article XVI, Texas Constitution;
9 provided, however, that in all cases in which the Board of Directors
10 considers the value of surplus real [~~such~~] property to be in excess
11 of One Thousand [~~(\$1,000.00)~~] Dollars, the property [~~same~~] shall be
12 sold only upon advertisement and competitive bids.

13 (j) To require the relocation of roads and highways in the
14 manner and to the extent permitted to Districts organized under
15 Section 59 of Article XVI of the Texas Constitution; the cost of
16 relocation of any roads, highways or railroads or telephone or
17 telegraph properties or facilities made necessary by this Act and
18 any reasonable actual damage incurred in changing and adjusting the
19 lines and grades of railroads or such highways or roads or telephone
20 or telegraph properties or facilities shall be paid by the
21 District.

22 (k) To make contracts with any person or legal entity,
23 including the United States, the state, any political subdivision
24 or body politic and corporate of the state, any other state, any
25 political subdivision or body politic and corporate within any
26 other state, and any interstate compact commission or similar
27 organization, necessary or convenient to the exercise of the

1 powers, rights, privileges and functions of the District and to
2 take all actions and execute all instruments necessary or
3 convenient to the exercise of the powers, rights, privileges and
4 functions of the District.

5 (l) To make or cause to be made surveys and engineering
6 investigations for the information of the District, to facilitate
7 the accomplishment of the purposes for which it is created.

8 (m) To borrow money for its corporate purposes, and without
9 limitation of the generality of the foregoing to borrow money and
10 accept grants, gratuities or other support from the United States
11 of America or the State of Texas, or from any corporation or agency
12 created or designated by the United States of America or the State
13 of Texas, and, in connection with any such loan, grant, or other
14 support, to enter into such arrangement with the United States of
15 America or the State of Texas or such corporation or agency, of
16 either as the District may deem advisable.

17 (n) To make and issue its negotiable bonds for moneys
18 borrowed in the manner and to the extent provided in this Act and
19 with reference thereto or otherwise to contract in any manner it
20 shall see fit and as may be required by any law pertaining to loans,
21 grants or other support received from the United States of America
22 or the State of Texas or from any corporation or agency, of either
23 of them.

24 (o) To make such contracts in the issuance of bonds as may be
25 considered necessary or convenient to insure the marketability
26 thereof.

27 (p) To sue or be sued in its corporate name, provided that if

1 the District prevails in a suit against a person or governmental
2 entity entitled to recover attorney's fees, costs for expert
3 witnesses, or any other related costs, the District is entitled to
4 recover those fees and costs according to the same terms that would
5 have governed recovery for the other person or governmental entity
6 if the District had not prevailed.

7 (q) To adopt, use and alter a corporate seal.

8 (r) To make by-laws for the management and regulation of its
9 affairs.

10 (s) To fix and collect charges and rates for water services
11 furnished by it and to impose penalties for failure to pay such
12 charges and rates when due, provided that such charges, rates and
13 penalties shall be fixed only by unanimous vote of the members of
14 the Board of Directors constituting a quorum and who are present at
15 a regular meeting.

16 (t) To cooperate and to enter into contracts with cities,
17 persons, firms, corporations and public agencies for the purpose of
18 supplying and selling them surface, storm, flood, underground, and
19 other water for municipal, domestic, industrial, and other useful
20 purposes permitted by law, provided that cities and areas
21 constituting the District shall be accorded priority in the
22 allocation of the District's available surface, storm, flood,
23 underground, and other water, and the Board of Directors shall
24 prescribe rules to effectuate this provision. Any such contract
25 may be upon such terms and for such time as the parties may agree,
26 and it may provide that it shall continue in effect until the
27 District's bonds specified therein and refunding bonds issued in

1 lieu of such bonds are fully paid. The authority of each member or
2 other city to enter into any contract with the District for the sale
3 of water or other services or for any other purpose within the
4 powers, rights, privileges, and functions of the District is vested
5 exclusively in the governing body of each member or other city
6 notwithstanding any provision of any home rule charter or any local
7 ordinance of such member or other city, or of any other provision of
8 any other law placing any restriction, limitation, or requirement
9 on the authority of the governing body of any member or other city
10 to enter into any such contract. No provision of the home rule
11 charter or of any other ordinance of any member or other city, and
12 no provision of any other law in conflict herewith will invalidate
13 or impair, in whole or in part, the enforceability and validity of
14 any contract entered into by the District with any member or other
15 city pursuant to the powers, rights, and privileges or functions of
16 the district. In the event the District shall have contracted with
17 the United States Government or any of its agencies for a source of
18 water supply or for the furnishing of any facilities necessary or
19 useful to the District in carrying out its purposes, any such
20 contract entered into under authority hereof may provide that it
21 shall continue until the District has fully discharged all
22 obligations incurred by it under the terms of its contract with the
23 United States Government or its agencies. The District is also
24 authorized to purchase surface, storm, flood, underground, and
25 other water supply from any person, firm, corporation or public
26 agency, or from the United States Government or any of its agencies.

27 (u) To operate and maintain with the consent of the

1 governing body of any city or town located within the District, any
2 works, plants or facilities of any such city deemed necessary or
3 convenient to the accomplishment of the purposes for which the
4 District is created.

5 (v) To levy, assess and collect ad valorem taxes to provide
6 funds necessary to construct or acquire, maintain and operate
7 improvements, works, plants and facilities deemed essential and
8 beneficial to the District upon a favorable majority vote of the
9 qualified property taxpaying electors voting at an election held
10 for that purpose within the District; and also, when so authorized,
11 to levy, assess and collect taxes to provide funds adequate to
12 defray the cost of the maintenance and operation and administration
13 of the District. Elections for the voting of such taxes shall be
14 ordered by the Board of Directors and shall be held and conducted as
15 provided herein for elections for the issuance of bonds and the levy
16 of taxes in support thereof. When so levied such taxes, as well as
17 taxes hereinafter provided to be levied in support of bond
18 indebtedness, shall constitute a lien on the property against which
19 such taxes are levied and assessed, and limitations shall not bar
20 the collection and enforcement thereof.

21 (w) To do any and all acts and things necessary or
22 convenient to the exercise of the powers, rights, privileges or
23 functions conferred upon or permitted the District by any other
24 law.

25 SECTION 3. Section 14, Chapter 243, Acts of the 53rd
26 Legislature, Regular Session, 1953, is amended to read as follows:

27 Sec. 14. [~~Awarding Construction or Purchase~~] Contracts.

1 The District may negotiate, enter, and modify a contract in
2 accordance with general law applicable to a municipality or to a
3 district created under Section 59, Article XVI, Texas Constitution
4 ~~[Any contract requiring an expenditure of more than Twenty-five~~
5 ~~Thousand (\$25,000.00) Dollars shall not be made until after~~
6 ~~publication of a notice to bidders once each week for two weeks~~
7 ~~before awarding the contract. Such notice shall be sufficient if it~~
8 ~~states the time and place when and where the bids will be opened,~~
9 ~~the general nature of the work to be done, or the material,~~
10 ~~equipment or supplies to be purchased, and states when and upon what~~
11 ~~terms copies of the plans and specifications may be obtained. The~~
12 ~~publication shall be in a newspaper published in the District~~
13 ~~designated by the Board of Directors].~~

14 SECTION 4. Section 13, Chapter 243, Acts of the 53rd
15 Legislature, Regular Session, 1953, as amended by this Act, applies
16 only to a suit filed on or after the effective date of this Act. A
17 suit filed before that date is governed by the law in effect on the
18 date the suit is filed, and that law is continued in effect for that
19 purpose.

20 SECTION 5. Section 14, Chapter 243, Acts of the 53rd
21 Legislature, Regular Session, 1953, as amended by this Act, applies
22 only to a contract entered into on or after the effective date of
23 this Act. A contract entered into before that date is governed by
24 the law in effect on the date of the contract, and that law is
25 continued in effect for that purpose.

26 SECTION 6. This Act takes effect September 1, 2007.