

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. A closed meeting of the Board of Directors that is
21 authorized under Chapter 551, Government Code, may include officers
22 and employees of constituent cities of the District and other
23 persons the Board determines to be necessary or helpful. Each
24 Director shall receive a fee as provided by general law [~~of not more~~

1 ~~than Fifty (\$50.00) Dollars for each attendance at a Board meeting~~
2 ~~and a fee of not more than Fifty (\$50.00) Dollars]~~ for each day
3 devoted to District business [~~other than a Board meeting~~]. Each
4 Director is also entitled to reimbursement for actual expenses
5 incurred in carrying out District business, including attending a
6 Board meeting. Payment to a Director for services performed and
7 expenses incurred is subject to the approval of a majority of the
8 Board.

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

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

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

1 controlling, conserving, protecting, distributing, processing and
2 utilizing such surface water and the transportation thereof to the
3 cities and areas comprising the District for municipal, domestic,
4 industrial and other useful purposes permitted by law.

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

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

21 (d) To acquire, construct, develop, operate, and maintain
22 any facilities or systems for drilling, pumping, capturing,
23 reducing, intercepting, eliminating, impounding, controlling,
24 using, injecting or otherwise capturing and disposing of brine,
25 brackish water, saltwater, saline water, or other water
26 contaminated by any type of chlorine, sodium, sulfates, or other
27 chemical condition or characteristic detrimental to the quality of

1 the water, whether the source of contaminated water is groundwater
2 or surface water, within or without the District or within or
3 without the state, and whether the facilities or systems are
4 located within or without the District or within or without the
5 state.

6 (e) To acquire or utilize surface or underground water
7 rights and to develop surface or underground water resources in any
8 manner in furtherance of the purposes described in Subsections (c)
9 and (d) of this section.

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

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

20 (h) To acquire by condemnation any and all property of any
21 kind, real, personal, or mixed, or any interest therein, within or
22 without the boundaries of the District, necessary or convenient to
23 the exercise of the powers, rights, privileges and functions
24 possessed by the District, in the manner provided by Chapter 21,
25 Property Code, relating to eminent domain. The amount of and
26 character of the property thus to be acquired shall be determined by
27 the Board of Directors, provided that the District shall not have

1 the right to so condemn any property which may be owned by any other
2 political subdivision, city or town; provided, however, that as
3 against persons, firms, and corporations, or receivers or trustees
4 thereof, who have the power of eminent domain, the fee title may not
5 be condemned, but the District may condemn only an easement. It is
6 specifically provided, however, that the District does not have the
7 authority to condemn underground water rights.

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

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

26 (k) To make contracts with any person or legal entity,
27 including the United States, the state, any political subdivision

1 or body politic and corporate of the state, any other state, any
2 political subdivision or body politic and corporate within any
3 other state, and any interstate compact commission or similar
4 organization, necessary or convenient to the exercise of the
5 powers, rights, privileges and functions of the District and to
6 take all actions and execute all instruments necessary or
7 convenient to the exercise of the powers, rights, privileges and
8 functions of the District.

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

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

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

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

4 (p) To sue or be sued in its corporate name, provided that if
5 the District prevails in a suit against a person or governmental
6 entity entitled to recover attorney's fees, costs for expert
7 witnesses, or any other related costs, the District is entitled to
8 recover those fees and costs according to the same terms that would
9 have governed recovery for the other person or governmental entity
10 if the District had not prevailed.

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

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

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

20 (t) To cooperate and to enter into contracts with cities,
21 persons, firms, corporations and public agencies for the purpose of
22 supplying and selling them surface, storm, flood, underground, and
23 other water for municipal, domestic, industrial, and other useful
24 purposes permitted by law, provided that cities and areas
25 constituting the District shall be accorded priority in the
26 allocation of the District's available surface, storm, flood,
27 underground, and other water, and the Board of Directors shall

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

1 authorized to purchase surface, storm, flood, underground, and
2 other water supply from any person, firm, corporation or public
3 agency, or from the United States Government or any of its agencies.

4 (u) To operate and maintain with the consent of the
5 governing body of any city or town located within the District, any
6 works, plants or facilities of any such city deemed necessary or
7 convenient to the accomplishment of the purposes for which the
8 District is created.

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

25 (w) To do any and all acts and things necessary or
26 convenient to the exercise of the powers, rights, privileges or
27 functions conferred upon or permitted the District by any other

1 law.

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

4 Sec. 14. [~~Awarding Construction or Purchase~~] Contracts.
5 The District may negotiate, enter, and modify a contract in
6 accordance with general law applicable to a municipality or to a
7 district created under Section 59, Article XVI, Texas Constitution
8 ~~[Any contract requiring an expenditure of more than Twenty-five~~
9 ~~Thousand (\$25,000.00) Dollars shall not be made until after~~
10 ~~publication of a notice to bidders once each week for two weeks~~
11 ~~before awarding the contract. Such notice shall be sufficient if it~~
12 ~~states the time and place when and where the bids will be opened,~~
13 ~~the general nature of the work to be done, or the material,~~
14 ~~equipment or supplies to be purchased, and states when and upon what~~
15 ~~terms copies of the plans and specifications may be obtained. The~~
16 ~~publication shall be in a newspaper published in the District~~
17 ~~designated by the Board of Directors].~~

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

24 SECTION 5. Section 14, Chapter 243, Acts of the 53rd
25 Legislature, Regular Session, 1953, as amended by this Act, applies
26 only to a contract entered into on or after the effective date of
27 this Act. A contract entered into before that date is governed by

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1 the law in effect on the date of the contract, and that law is
2 continued in effect for that purpose.

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