

1-1 By: Swinford (Senate Sponsor - Duncan) H.B. No. 3559
1-2 (In the Senate - Received from the House May 10, 2007;
1-3 May 14, 2007, read first time and referred to Committee on Natural
1-4 Resources; May 19, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 11, Nays 0;
1-6 May 19, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3559 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration and powers of the Canadian River
1-11 Municipal Water Authority.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 5(b), Chapter 243, Acts of the 53rd
1-14 Legislature, Regular Session, 1953, is amended to read as follows:

1-15 (b). The Board of Directors shall hold regular meetings, the
1-16 date thereof to be established in the District's bylaws or by
1-17 resolution. The President or any three members may call such
1-18 special meetings as may be necessary in the administration of the
1-19 District's business, provided that at least five days prior to the
1-20 meeting date, the Secretary shall have mailed notice thereof to the
1-21 address which each member shall file with the Secretary. Notices of
1-22 special meetings may be waived in writing by any Director. The
1-23 Board of Directors or Board committees may hold meetings by
1-24 telephone conference call, videoconference call, or through
1-25 communications over the Internet, in accordance with procedures
1-26 provided by Subchapter F, Chapter 551, Government Code, if
1-27 determined to be necessary or convenient by the President or any
1-28 three members. A closed meeting of the Board of Directors that is
1-29 authorized under Chapter 551, Government Code, may include officers
1-30 and employees of constituent cities of the District. Each Director
1-31 shall receive a fee as provided by general law [of not more than
1-32 Fifty (\$50.00) Dollars for each attendance at a Board meeting and a
1-33 fee of not more than Fifty (\$50.00) Dollars] for each day devoted to
1-34 District business [other than a Board meeting]. Each Director is
1-35 also entitled to reimbursement for actual expenses incurred in
1-36 carrying out District business, including attending a Board
1-37 meeting. Payment to a Director for services performed and expenses
1-38 incurred is subject to the approval of a majority of the Board.

1-39 SECTION 2. Section 13, Chapter 243, Acts of the 53rd
1-40 Legislature, Regular Session, 1953, is amended to read as follows:

1-41 Sec. 13. DISTRICT POWERS. In addition to those herein
1-42 otherwise mentioned, the District shall be and is hereby authorized
1-43 to exercise the following powers, rights, privileges and functions:

1-44 (a) To store, control, conserve, protect, distribute and
1-45 utilize within or without the District or within or without the
1-46 state the storm and flood waters and unappropriated flow of the
1-47 Canadian River and its tributaries, and to prevent the escape of any
1-48 such waters without first obtaining therefrom a maximum of public
1-49 benefit, by the construction of a dam or dams across said river and
1-50 its tributaries, or otherwise, by complying with Chapter 11, Water
1-51 Code, and in such manner as shall fully recognize and be in harmony
1-52 with the limitations of use of the waters of said river provided in
1-53 the "Canadian River Compact" appearing as Chapter 43, Water Code.
1-54 The District is also empowered to provide by purchase, contract,
1-55 lease, gift, or in any other lawful manner, and to develop all
1-56 facilities within or without the District or within or without the
1-57 state deemed necessary or useful for the purpose of storing,
1-58 controlling, conserving, protecting, distributing, processing and
1-59 utilizing such surface water and the transportation thereof to the
1-60 cities and areas comprising the District for municipal, domestic,
1-61 industrial and other useful purposes permitted by law.

1-62 (b) To acquire and develop within or without the District or
1-63 within or without the state any other available source of surface,

2-1 storm, flood, underground, or other water supply and to construct,
 2-2 acquire and develop all facilities deemed necessary or useful with
 2-3 respect thereto.

2-4 (c) To acquire, construct, develop, operate, and maintain
 2-5 any and all property of any kind, real, personal, or mixed, or any
 2-6 interest in property whether within or without the District or
 2-7 within or without the state and to enter into any contracts with any
 2-8 person or legal entity and take all actions necessary or convenient
 2-9 in order to protect and preserve, and to prevent, eliminate,
 2-10 reduce, or minimize the pollution, contamination, or deterioration
 2-11 of the quality of, the water of the Canadian River or any of its
 2-12 tributaries or the water of any other source of water supply to the
 2-13 District in order to facilitate the use of the water for any lawful
 2-14 purpose.

2-15 (d) To acquire, construct, develop, operate, and maintain
 2-16 any facilities or systems for drilling, pumping, capturing,
 2-17 reducing, intercepting, eliminating, impounding, controlling,
 2-18 using, injecting or otherwise capturing and disposing of brine,
 2-19 brackish water, saltwater, saline water, or other water
 2-20 contaminated by any type of chlorine, sodium, sulfates, or other
 2-21 chemical condition or characteristic detrimental to the quality of
 2-22 the water, whether the source of contaminated water is groundwater
 2-23 or surface water, within or without the District or within or
 2-24 without the state, and whether the facilities or systems are
 2-25 located within or without the District or within or without the
 2-26 state.

2-27 (e) To acquire or utilize surface or underground water
 2-28 rights and to develop surface or underground water resources in any
 2-29 manner in furtherance of the purposes described in Subsections (c)
 2-30 and (d) of this section.

2-31 (f) To declare any facilities or system acquired or
 2-32 constructed under Subsections (a) through (e) of this section to be
 2-33 a part of the District's water supply system.

2-34 (g) To acquire by purchase, construction, lease, gift, or in
 2-35 any other lawful manner, and to maintain, use and operate any and
 2-36 all property of any kind, real, personal or mixed, or any interest
 2-37 therein, within or without the boundaries of the District or within
 2-38 or without the state, necessary or convenient to the exercise of the
 2-39 powers, rights, privileges and functions possessed by the District
 2-40 under this Act.

2-41 (h) To acquire by condemnation any and all property of any
 2-42 kind, real, personal, or mixed, or any interest therein, within or
 2-43 without the boundaries of the District, necessary or convenient to
 2-44 the exercise of the powers, rights, privileges and functions
 2-45 possessed by the District, in the manner provided by Chapter 21,
 2-46 Property Code, relating to eminent domain. The amount of and
 2-47 character of the property thus to be acquired shall be determined by
 2-48 the Board of Directors, provided that the District shall not have
 2-49 the right to so condemn any property which may be owned by any other
 2-50 political subdivision, city or town; provided, however, that as
 2-51 against persons, firms, and corporations, or receivers or trustees
 2-52 thereof, who have the power of eminent domain, the fee title may not
 2-53 be condemned, but the District may condemn only an easement. It is
 2-54 specifically provided, however, that the District does not have the
 2-55 authority to condemn underground water rights.

2-56 (i) To sell or otherwise dispose of any surplus property of
 2-57 any kind, real, personal, or mixed, or any interest therein, which
 2-58 shall not be necessary to the operation of the District in
 2-59 accordance with general law applicable to a municipality or to a
 2-60 district created under Section 59, Article XVI, Texas Constitution
 2-61 [, provided, however, that in all cases in which the Board of
 2-62 Directors considers the value of such property to be in excess of
 2-63 One Thousand (\$1,000.00) Dollars, same shall be sold only upon
 2-64 advertisement and competitive bids].

2-65 (j) To require the relocation of roads and highways in the
 2-66 manner and to the extent permitted to Districts organized under
 2-67 Section 59 of Article XVI of the Texas Constitution; the cost of
 2-68 relocation of any roads, highways or railroads or telephone or
 2-69 telegraph properties or facilities made necessary by this Act and

3-1 any reasonable actual damage incurred in changing and adjusting the
 3-2 lines and grades of railroads or such highways or roads or telephone
 3-3 or telegraph properties or facilities shall be paid by the
 3-4 District.

3-5 (k) To make contracts with any person or legal entity,
 3-6 including the United States, the state, any political subdivision
 3-7 or body politic and corporate of the state, any other state, any
 3-8 political subdivision or body politic and corporate within any
 3-9 other state, and any interstate compact commission or similar
 3-10 organization, necessary or convenient to the exercise of the
 3-11 powers, rights, privileges and functions of the District and to
 3-12 take all actions and execute all instruments necessary or
 3-13 convenient to the exercise of the powers, rights, privileges and
 3-14 functions of the District.

3-15 (l) To make or cause to be made surveys and engineering
 3-16 investigations for the information of the District, to facilitate
 3-17 the accomplishment of the purposes for which it is created.

3-18 (m) To borrow money for its corporate purposes, and without
 3-19 limitation of the generality of the foregoing to borrow money and
 3-20 accept grants, gratuities or other support from the United States
 3-21 of America or the State of Texas, or from any corporation or agency
 3-22 created or designated by the United States of America or the State
 3-23 of Texas, and, in connection with any such loan, grant, or other
 3-24 support, to enter into such arrangement with the United States of
 3-25 America or the State of Texas or such corporation or agency, of
 3-26 either as the District may deem advisable.

3-27 (n) To make and issue its negotiable bonds for moneys
 3-28 borrowed in the manner and to the extent provided in this Act and
 3-29 with reference thereto or otherwise to contract in any manner it
 3-30 shall see fit and as may be required by any law pertaining to loans,
 3-31 grants or other support received from the United States of America
 3-32 or the State of Texas or from any corporation or agency, of either
 3-33 of them.

3-34 (o) To make such contracts in the issuance of bonds as may be
 3-35 considered necessary or convenient to insure the marketability
 3-36 thereof.

3-37 (p) To sue or be sued in its corporate name, provided that if
 3-38 the District prevails in a suit against a person or governmental
 3-39 entity entitled to recover attorney's fees, costs for expert
 3-40 witnesses, or any other related costs, the District is entitled to
 3-41 recover those fees and costs according to the same terms that would
 3-42 have governed recovery for the other person or governmental entity
 3-43 if the District had not prevailed.

3-44 (q) To adopt, use and alter a corporate seal.

3-45 (r) To make by-laws for the management and regulation of its
 3-46 affairs.

3-47 (s) To fix and collect charges and rates for water services
 3-48 furnished by it and to impose penalties for failure to pay such
 3-49 charges and rates when due, provided that such charges, rates and
 3-50 penalties shall be fixed only by unanimous vote of the members of
 3-51 the Board of Directors constituting a quorum and who are present at
 3-52 a regular meeting.

3-53 (t) To cooperate and to enter into contracts with cities,
 3-54 persons, firms, corporations and public agencies for the purpose of
 3-55 supplying and selling them surface, storm, flood, underground, and
 3-56 other water for municipal, domestic, industrial, and other useful
 3-57 purposes permitted by law, provided that cities and areas
 3-58 constituting the District shall be accorded priority in the
 3-59 allocation of the District's available surface, storm, flood,
 3-60 underground, and other water, and the Board of Directors shall
 3-61 prescribe rules to effectuate this provision. Any such contract
 3-62 may be upon such terms and for such time as the parties may agree,
 3-63 and it may provide that it shall continue in effect until the
 3-64 District's bonds specified therein and refunding bonds issued in
 3-65 lieu of such bonds are fully paid. The authority of each member or
 3-66 other city to enter into any contract with the District for the sale
 3-67 of water or other services or for any other purpose within the
 3-68 powers, rights, privileges, and functions of the District is vested
 3-69 exclusively in the governing body of each member or other city

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

4-22 (u) To operate and maintain with the consent of the
 4-23 governing body of any city or town located within the District, any
 4-24 works, plants or facilities of any such city deemed necessary or
 4-25 convenient to the accomplishment of the purposes for which the
 4-26 District is created.

4-27 (v) To levy, assess and collect ad valorem taxes to provide
 4-28 funds necessary to construct or acquire, maintain and operate
 4-29 improvements, works, plants and facilities deemed essential and
 4-30 beneficial to the District upon a favorable majority vote of the
 4-31 qualified property taxpaying electors voting at an election held
 4-32 for that purpose within the District; and also, when so authorized,
 4-33 to levy, assess and collect taxes to provide funds adequate to
 4-34 defray the cost of the maintenance and operation and administration
 4-35 of the District. Elections for the voting of such taxes shall be
 4-36 ordered by the Board of Directors and shall be held and conducted as
 4-37 provided herein for elections for the issuance of bonds and the levy
 4-38 of taxes in support thereof. When so levied such taxes, as well as
 4-39 taxes hereinafter provided to be levied in support of bond
 4-40 indebtedness, shall constitute a lien on the property against which
 4-41 such taxes are levied and assessed, and limitations shall not bar
 4-42 the collection and enforcement thereof.

4-43 (w) To do any and all acts and things necessary or
 4-44 convenient to the exercise of the powers, rights, privileges or
 4-45 functions conferred upon or permitted the District by any other
 4-46 law.

4-47 SECTION 3. Section 14, Chapter 243, Acts of the 53rd
 4-48 Legislature, Regular Session, 1953, is amended to read as follows:

4-49 Sec. 14. ~~[Awarding Construction or Purchase] Contracts.~~
 4-50 ~~The District may negotiate, enter, and modify a contract in~~
 4-51 ~~accordance with general law applicable to a municipality or to a~~
 4-52 ~~district created under Section 59, Article XVI, Texas Constitution~~
 4-53 ~~[Any contract requiring an expenditure of more than Twenty-five~~
 4-54 ~~Thousand (\$25,000.00) Dollars shall not be made until after~~
 4-55 ~~publication of a notice to bidders once each week for two weeks~~
 4-56 ~~before awarding the contract. Such notice shall be sufficient if it~~
 4-57 ~~states the time and place when and where the bids will be opened,~~
 4-58 ~~the general nature of the work to be done, or the material,~~
 4-59 ~~equipment or supplies to be purchased, and states when and upon what~~
 4-60 ~~terms copies of the plans and specifications may be obtained. The~~
 4-61 ~~publication shall be in a newspaper published in the District~~
 4-62 ~~designated by the Board of Directors].~~

4-63 SECTION 4. Section 13, Chapter 243, Acts of the 53rd
 4-64 Legislature, Regular Session, 1953, as amended by this Act, applies
 4-65 only to a suit filed on or after the effective date of this Act. A
 4-66 suit filed before that date is governed by the law in effect on the
 4-67 date the suit is filed, and that law is continued in effect for that
 4-68 purpose.

4-69 SECTION 5. Section 14, Chapter 243, Acts of the 53rd

5-1 Legislature, Regular Session, 1953, as amended by this Act, applies
5-2 only to a contract entered into on or after the effective date of
5-3 this Act. A contract entered into before that date is governed by
5-4 the law in effect on the date of the contract, and that law is
5-5 continued in effect for that purpose.

5-6 SECTION 6. This Act takes effect September 1, 2007.

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