

By: Duncan, Seliger

S.B. No. 1833

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

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

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

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

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

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

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

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

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

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

1 or surface water, within or without the District or within or
2 without the state, and whether the facilities or systems are
3 located within or without the District or within or without the
4 state.

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

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

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

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

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

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

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

25 (k) To make contracts with any person or legal entity,
26 including the United States, the state, any political subdivision
27 or body politic and corporate of the state, any other state, any

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

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

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

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

27 (o) To make such contracts in the issuance of bonds as may be

1 considered necessary or convenient to insure the marketability
2 thereof.

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

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

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

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

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

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

1 other water supply from any person, firm, corporation or public
2 agency, or from the United States Government or any of its agencies.

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

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

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

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

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

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

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

1 continued in effect for that purpose.

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