

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(b). The Board of Directors shall hold regular meetings, the date thereof to be established in the District's bylaws or by resolution. The President or any three members may call such special meetings as may be necessary in the administration of the District's business, provided that at least five days prior to the meeting date, the Secretary shall have mailed notice thereof to the address which each member shall file with the Secretary. Notices of special meetings may be waived in writing by any Director. The Board of Directors or Board committees may hold meetings by telephone conference call, videoconference call, or through communications over the Internet, in accordance with procedures provided by Subchapter F, Chapter 551, Government Code, if determined to be necessary or convenient by the President or any three members. Each Director shall receive a fee as provided by general law [~~of not more than Fifty (\$50.00) Dollars for each attendee at a Board meeting and a fee of not more than Fifty (\$50.00) Dollars~~] for each day devoted to District business [~~other than a Board meeting~~]. Each Director is also entitled to reimbursement for actual expenses incurred in carrying out District business, including attending a Board meeting. Payment to a Director for services performed and expenses incurred is subject to the approval of a majority of the Board.

SENATE VERSION

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

(b). The Board of Directors shall hold regular meetings, the date thereof to be established in the District's bylaws or by resolution. The President or any three members may call such special meetings as may be necessary in the administration of the District's business, provided that at least five days prior to the meeting date, the Secretary shall have mailed notice thereof to the address which each member shall file with the Secretary. Notices of special meetings may be waived in writing by any Director. The Board of Directors or Board committees may hold meetings by telephone conference call, videoconference call, or through communications over the Internet, in accordance with procedures provided by Subchapter F, Chapter 551, Government Code, if determined to be necessary or convenient by the President or any three members. A closed meeting of the Board of Directors that is authorized under Chapter 551, Government Code, may include officers and employees of constituent cities of the District. Each Director shall receive a fee as provided by general law [~~of not more than Fifty (\$50.00) Dollars for each attendee at a Board meeting and a fee of not more than Fifty (\$50.00) Dollars~~] for each day devoted to District business [~~other than a Board meeting~~]. Each Director is also entitled to reimbursement for actual expenses incurred in carrying out District business, including attending a Board meeting. Payment to a Director for services performed

CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

SENATE VERSION

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

CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

and areas comprising the District for municipal, domestic, industrial and other useful purposes permitted by law.

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

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

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

SENATE VERSION

and areas comprising the District for municipal, domestic, industrial and other useful purposes permitted by law.

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

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

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

CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

or without the state, and whether the facilities or systems are located within or without the District or within or without the state.

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

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

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

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

SENATE VERSION

or without the state, and whether the facilities or systems are located within or without the District or within or without the state.

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

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

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

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CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

against persons, firms, and corporations, or receivers or trustees thereof, who have the power of eminent domain, the fee title may not be condemned, but the District may condemn only an easement. It is specifically provided, however, that the District does not have the authority to condemn underground water rights.

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

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

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

SENATE VERSION

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CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

SENATE VERSION

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CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

SENATE VERSION

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CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION

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CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

of its contract with the United States Government or its agencies. The District is also authorized to purchase surface, storm, flood, underground, and other water supply from any person, firm, corporation or public agency, or from the United States Government or any of its agencies.

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

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

SENATE VERSION

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

CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

SECTION 4. Section 13, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953, as amended by this Act, applies only to a suit filed on or after the effective

SENATE VERSION

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Same as House version.

Same as House version.

CONFERENCE

House Bill 3559
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

date of this Act. A suit filed before that date is governed by the law in effect on the date the suit is filed, and that law is continued in effect for that purpose.

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

Same as House version.

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

Same as House version.