

By: Eiland

H.B. No. 4735

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the powers of the Coastal Water Authority; affecting  
3 the authority to issue bonds.

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

5 SECTION 1. Section 3, Chapter 601, Acts of the 60th  
6 Legislature, Regular Session, 1967, is amended to read as follows:

7 Sec. 3. The Authority shall have and exercise and is hereby  
8 vested with all of the rights, powers and privileges, authorities  
9 and functions conferred and imposed by the general laws of this  
10 state now in force or hereafter enacted applicable to water control  
11 and improvement districts and municipal utility districts created  
12 under authority of Section 59 of Article XVI, Constitution of  
13 Texas, but to the extent that the provisions of such general laws  
14 may be in conflict or inconsistent with the provisions of this Act,  
15 the provisions of this Act shall prevail. All such general laws are  
16 hereby adopted and incorporated by reference with the same effect  
17 as if incorporated in full in this Act. Without in any way limiting  
18 the generalization of the foregoing, it is expressly provided that  
19 the Authority shall have and exercise, and is hereby vested with,  
20 all of the rights, powers and privileges, authorities and functions  
21 conferred by Chapters 51 and 54, Title 4, Water Code, together with  
22 all amendments thereof and additions thereto. The Authority shall  
23 have the power to make, construct, or otherwise acquire  
24 improvements either within or without the boundaries thereof

1 necessary to carry out the powers and authority granted by this Act  
2 and said general laws. Not by way of limitation, the Authority  
3 shall be authorized and empowered to conserve, store, transport,  
4 treat and purify, distribute, sell and deliver water, whether  
5 surface, underground, desalinated, or reclaimed, to persons,  
6 corporations, both public and private, political subdivisions of  
7 the state and others, and may purchase, construct or lease all  
8 property, works and facilities, both within and without the  
9 Authority, necessary for such purposes. The Authority is expressly  
10 authorized to acquire water supplies from sources both within and  
11 without the boundaries of the Authority and to sell, transport and  
12 deliver water to customers situated within and without the  
13 Authority and to acquire all properties and facilities necessary  
14 for such purposes, and for any and all of such purposes may enter  
15 into contracts with persons, with municipal, public and private  
16 corporations, including the City of Houston, and any political  
17 subdivision of the state for such periods of time, not exceeding  
18 forty (40) years, and on such terms and conditions as its Board of  
19 Directors may deem desirable, fair and advantageous and to which  
20 the parties may agree; provided, that such contracts may provide  
21 that they shall continue in effect until bonds issued by the  
22 Authority to finance the cost of the Authority's improvements,  
23 facilities, and other properties, and refunding bonds issued in  
24 lieu thereof, are paid. In addition, the Authority shall have the  
25 power to contract with others to transport their water and the power  
26 to act jointly with others in the performance of all functions and  
27 purposes of the Authority. Provided that the Authority has no

1 existing contractual obligation to any person, corporation or  
2 political subdivision to use a particular canal, lateral or ditch  
3 to transport or deliver water, the Authority is expressly  
4 authorized to abandon, sell, release or deconstruct that canal,  
5 ditch or lateral if any of the following conditions apply: (i) the  
6 Authority has not used the canal, ditch or lateral to transport or  
7 deliver water to persons, corporations or political subdivisions of  
8 the state for a period of five (5) years; (ii) there are intervening  
9 gaps between the canal, ditch or lateral the Authority wishes to  
10 abandon, sell, release or deconstruct and the Authority's primary  
11 canal serving that canal, lateral or ditch; or (iii) an adjoining  
12 landowner has requested in writing that the Authority abandon,  
13 sell, release or deconstruct the canal, ditch or lateral and no  
14 other adjoining landowner has objected within thirty (30) days  
15 after receiving notice from the Authority of its intent to abandon,  
16 sell, release or deconstruct the canal, ditch or lateral. Nothing  
17 herein contained shall preclude the Authority from acquiring water  
18 rights under any law or permits heretofore or hereafter issued,  
19 provided acquisition of the same is approved by order or subsequent  
20 permit from the Texas Commission on Environmental Quality. The  
21 Authority must secure the approval of the [~~mayor and the city~~  
22 ~~council~~] Director of the Department of Public Works and  
23 Engineering, or successor department, of the City of Houston,  
24 Texas, before the Authority acquires any water rights.

25 SECTION 2. Chapter 601, Acts of the 60th Legislature,  
26 Regular Session, 1967, is amended by amending Section 3A and adding  
27 Section 3E to read as follows:

1           Sec. 3A. The Authority may develop [~~and~~], generate, transmit, or distribute power and electric energy [~~for use by the~~  
2 ~~Authority or the City of Houston~~] by any means, including [~~by~~] wind  
3 turbines and hydroelectric facilities.  
4

5           Sec. 3E. The Authority is authorized to participate in a  
6 wetland mitigation program under Chapter 221, Natural Resources  
7 Code.

8           SECTION 3. Subsection 3B(c), Chapter 601, Acts of the 60th  
9 Legislature, Regular Session, 1967, is amended to read as follows:

10           (c) A corporation created under this section is governed in  
11 the same manner as a local government corporation created by a  
12 municipality or county, except that the board of the Authority  
13 shall appoint the board of the corporation and that Section  
14 431.101(g), Transportation Code shall not apply to a corporation  
15 created under this section. The board of the corporation serves at  
16 the will of the board of the Authority.

17           SECTION 4. Section 4, Chapter 601, Acts of the 60th  
18 Legislature, Regular Session, 1967, is amended by amending  
19 Subsection (b) to read as follows:

20           (b) The Authority shall have and is hereby authorized,  
21 subject to the provisions contained herein, to exercise the powers,  
22 rights, privileges, and functions of establishing, acquiring, and  
23 extending a park or park system and the Authority shall be  
24 authorized to improve and equip its park or park system in any  
25 manner considered by its board to be appropriate including the  
26 construction, purchase, lease, and other acquisition of such park  
27 facilities as shall be desirable in the full and adequate

1 development of the park or park system and once established and  
2 improved the Authority shall be authorized from time to time to  
3 improve, repair, extend, operate, and maintain such park or park  
4 system and the park facilities and other improvements situated  
5 thereon and relating thereto.

6 "Park facilities," as used herein, means any and all  
7 improvements to, or equipment to be placed in, a park, which in the  
8 judgment of the board is or will be appropriate, necessary, or  
9 useful in the establishment and operation of a park or park system  
10 and which will be used or useful by the public in its enjoyment and  
11 use thereof, including without limitation, roads, paths,  
12 ornaments, public utilities and all types and all lines, systems,  
13 and facilities incident thereto, buildings of every type (including  
14 but not limited to those related to or useful in the accommodation,  
15 lodging, housing, and feeding of the members of the public who may  
16 frequent the park) and amusement equipment and facilities of all  
17 types. "Park," as used herein, means any area of land or interest  
18 therein which is now owned or may hereafter be acquired by the  
19 Authority [~~and which is adjacent to the main or lateral canals of~~  
20 ~~the Authority~~] and which in the judgment of the board is or will be  
21 appropriate, necessary or useful as and which is or will be  
22 dedicated, used, and devoted by the board to use by the public as a  
23 playground or place of rest, resort, recreation, exercise, sport,  
24 pleasure, amusement, or enjoyment including areas to be used as  
25 open space, wetlands, reforestation or other uses that reduce,  
26 offset, or capture greenhouse gases or other emissions [~~in~~  
27 ~~connection with the beneficial use of the main or lateral canals to~~

1 ~~which it is adjacent]~~ provided that the board of the Authority finds  
2 the area of land or interest to be useful for an existing project or  
3 to serve a purpose that benefits the Authority. "Park system," as

4 defined herein means more than one park whether or not contiguous.

5 The Authority shall be authorized to acquire property of any  
6 kind, or any interest therein, necessary or convenient to the  
7 exercise of the powers, rights, privileges, and functions conferred  
8 pursuant to this Section 4(b); provided, however, that the  
9 authority shall not acquire such parks and/or park system by the  
10 exercise of eminent domain.

11 Each park and park system acquired or established under the  
12 provisions hereof shall be under and subject to the control and  
13 management of the board, and the board shall have the continuous  
14 general power to manage and operate the affairs of the same as it  
15 may consider appropriate, including without limitation the power to  
16 employ such personnel for management or policing purposes, or  
17 otherwise, to enter into such contracts and agreements extending  
18 over such periods of time, to provide for the sale, rental, or use  
19 of such products in the park or park system as shall be considered  
20 necessary to the full, complete, proper, and efficient development,  
21 administration, and operation of the park or park system.

22 The Authority shall have the express general power and  
23 authority to make, grant, accept, and enter into all leases, and all  
24 concession, rental, operating, or other contracts and agreements  
25 covering or relating to any part or all of the land comprising any  
26 park, park system, or park facilities, which the board shall deem  
27 necessary or convenient to carry out any of the purposes and powers

1 granted hereby, upon such terms and conditions and for such length  
2 or period of time as may be prescribed herein. Any such contract,  
3 lease, or agreement may be entered into with any person, real or  
4 artificial, any corporation, municipal or private, any  
5 governmental agency or bureau, including the United States  
6 government and the State of Texas, agencies and political  
7 subdivisions thereof, and the board may make contracts, leases, and  
8 agreements with any such persons, corporation, or entities for the  
9 acquisition, financing, construction, or operation of any park,  
10 park system, or park facilities or other improvements in or  
11 connected with or incident to any park or park system.

12 Any and all such contracts, leases, and agreements, to be  
13 effective, shall be authorized by order or resolution of the board,  
14 shall be executed by its president and attested by its secretary, or  
15 it may be executed by such other person or persons as the board may  
16 direct, and the same shall be binding upon the Authority without  
17 reference to any other statute or statutes.

18 The board shall be expressly authorized to adopt and enforce  
19 such rules and regulations relating to the use, operation,  
20 management, administration, and policing of its park or park system  
21 and related waters controlled by it as it may consider appropriate,  
22 including, without limitation, the zoning or dividing of each park  
23 or park system into such zones or divisions as it may consider  
24 appropriate and in the interest of such park or park system as a  
25 whole, and it may restrict and prescribe the activities that may be  
26 conducted in each such zone or division.

27 The board shall be authorized to fix, impose, and collect

1 such fees, tolls, rents, rates, and charges for entry to, or use of,  
2 the park or park system and park facilities controlled by it as it  
3 may deem necessary, with other sources of funds available to it, to  
4 support the acquisition, maintenance, upkeep, repair, improvement,  
5 and operation of such park or park system.

6 The board is hereby authorized to accept grants, gratuities,  
7 advances, and loans in any form from any source approved by the  
8 board including the United States Government or any agency thereof,  
9 the State of Texas or any agency thereof, any private or public  
10 corporation, and any other person, for the purpose of promoting,  
11 establishing, and accomplishing the objectives and purposes and  
12 powers herein set forth, and to make and enter into such  
13 concessions, agreements, and covenants as the board considers  
14 appropriate in connection therewith.

15 The Authority may exercise any of its existing powers,  
16 including its parks powers, to carry out projects or activities  
17 that reduce, offset, or capture and sequester greenhouse gases or  
18 other emissions as provided by law. The Authority shall have the  
19 power to contract with private or public entities to sell or trade  
20 credits, offsets, tax credits, or other similar marketable  
21 instruments authorized by law and available to the Authority  
22 attributable to any such projects and activities. The Authority  
23 shall have the power to pledge any stream of revenue from any such  
24 transactions to the issuance of bonds or notes to fund any  
25 authorized purpose of the Authority. The Authority may contract  
26 with other governmental entities to issue bonds or notes secured by  
27 a stream of revenue from such entities attributable to any such



1 projects and activities. The proceeds of such bonds may be used to  
2 fund any authorized purpose of the Authority or any joint project  
3 with the participating governmental entity.

4 SECTION 5. The legislature finds that proper and legal  
5 notice of the intention to introduce this Act, setting forth the  
6 general substance of this Act, has been published as provided by  
7 law, and the notice and a copy of this Act have been furnished to all  
8 persons, agencies, officials, or entities to which they are  
9 required to be furnished by the constitution and laws of this state,  
10 including the Governor of Texas, who has submitted the notice and  
11 Act to the Texas Commission on Environmental Quality. Also, the  
12 legislature finds that the Texas Commission on Environmental  
13 Quality has filed its recommendations relating to this Act with the  
14 governor, lieutenant governor, and speaker of the house of  
15 representatives, within the required time. All requirements of the  
16 constitution and laws of this state and the rules and procedures of  
17 the legislature with respect to the notice, introduction, and  
18 passage of this Act have been fulfilled and accomplished.

19 SECTION 6. (a) All acts and proceedings of the Coastal  
20 Water Authority or the board of directors of the Coastal Water  
21 Authority taken before the effective date of this Act are validated  
22 and confirmed in all respects as if the actions had been done as  
23 authorized by law.

24 (b) A governmental act or proceeding of the authority  
25 occurring after an act or proceeding validated by this Act may not  
26 be held invalid on the ground that the prior act or proceeding, in  
27 the absence of this Act, was invalid.

1           (c) This section does not apply to any matter that on the  
2 effective date of this Act:

3                   (1) is involved in litigation if the litigation  
4 ultimately results in the matter being held invalid by a final  
5 judgement of a court of competent jurisdiction; or

6                   (2) has been held invalid by a final judgement of a  
7 court of competent jurisdiction.

8           SECTION 7. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2009.