

By: Craddick

H.B. No. 4805

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the West Texas Water Supply District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11003 to read as follows:

CHAPTER 11003. WEST TEXAS WATER SUPPLY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11003.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the West Texas Water Supply District.

Sec. 11003.002. NATURE OF DISTRICT. The district is a water supply district in Midland County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

Sec. 11003.003. CONFIRMATION ELECTION NOT REQUIRED. The district is not required to hold a confirmation election to confirm the creation of the district.

Sec. 11003.004. DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the

1 Act creating this chapter.

2 (b) The boundaries and field notes contained in Section 2 of
3 the Act creating this chapter form a closure. A mistake made in the
4 field notes or in copying the field notes in the legislative process
5 does not affect:

6 (1) the organization, existence, or validity of the
7 district;

8 (2) the right of the district to impose taxes; or

9 (3) the legality or operation of the board.

10 (c) The district may annex land as provided by Subchapter J,
11 Chapter 49, Water Code, or other law regardless of whether the land
12 is contiguous to the district if the land is located not more than
13 130 miles outside the initial boundaries of the district as
14 described by Section 2 of the Act creating this chapter and if the
15 district determines that the annexation is necessary or convenient
16 for the district to:

17 (1) exercise its powers under this chapter; or

18 (2) supply water from a water source to a municipality
19 or other political subdivision.

20 [Sections 11003.005-11003.020 reserved for expansion]

21 SUBCHAPTER A-1. TEMPORARY PROVISIONS

22 Sec. 11003.021. INITIAL DIRECTORS. (a) The initial board
23 consists of:

24 (1) Paul Latham;

25 (2) Brock Thompson;

26 (3) Mitch Malouf;

27 (4) Robert Rendall; and

1 (5) Mark Tisdale.

2 (b) If an initial director fails to qualify for office, the
3 initial directors who have qualified shall appoint a person to fill
4 the vacancy. If at any time there are fewer than three qualified
5 initial directors, the Texas Commission on Environmental Quality
6 shall appoint the necessary number of persons to fill all vacancies
7 on the board.

8 Sec. 11003.022. ORGANIZATIONAL MEETING OF INITIAL
9 DIRECTORS. As soon as practicable after all of the initial
10 directors have qualified under Section 49.055, Water Code, the
11 initial directors shall meet at a location inside or outside the
12 district that is agreeable to a majority of the directors. If a
13 location cannot be agreed on, the organizational meeting shall be
14 at the Midland County Courthouse.

15 Sec. 11003.023. TERMS OF INITIAL DIRECTORS. The first two
16 initial directors listed in Section 11003.021 shall serve a term
17 expiring December 1 following the first regularly scheduled
18 election of directors under Section 11003.053, and the remaining
19 three initial directors shall serve a term expiring December 1
20 following the second regularly scheduled election of directors.

21 Sec. 11003.024. EXPIRATION OF SUBCHAPTER. This subchapter
22 expires September 1, 2015.

23 [Sections 11003.025-11003.050 reserved for expansion]

24 SUBCHAPTER B. BOARD OF DIRECTORS

25 Sec. 11003.051. COMPOSITION OF BOARD; TERMS. (a) The
26 district is governed by a board of five directors.

27 (b) Except for initial directors, directors serve staggered

1 four-year terms.

2 Sec. 11003.052. QUALIFICATIONS. To be qualified to serve
3 as a director, a person must meet only the qualifications provided
4 by Section 54.102, Water Code.

5 Sec. 11003.053. ELECTION OF DIRECTORS. Notwithstanding
6 Section 49.103, Water Code, the board shall hold an election to
7 elect the appropriate number of directors on the uniform election
8 date in November of each even-numbered year.

9 [Sections 11003.054-11003.100 reserved for expansion]

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 11003.101. GENERAL POWERS AND DUTIES. (a) Except as
12 provided by Subsections (c) and (d), the district has the powers and
13 duties provided by the general law of this state, including
14 Chapters 49, 51, 53, and 54, Water Code, applicable to water control
15 and improvement districts, fresh water supply districts, and
16 municipal utility districts created under Section 59, Article XVI,
17 Texas Constitution.

18 (b) Except as otherwise specifically provided by this
19 chapter, the district may not exercise its powers more than 130
20 miles outside the initial boundaries of the district as described
21 by Section 2 of the Act creating this chapter.

22 (c) Sections 53.029(b), 53.030-53.034, and 53.040-53.043,
23 Water Code, do not apply to the district.

24 (d) If a provision of Chapter 49, 51, 53, or 54, Water Code,
25 is in conflict or inconsistent with this chapter, this chapter
26 prevails. If there is a conflict between a provision of Chapter 49,
27 51, 53, or 54, Water Code, and a provision of another chapter listed

1 in this subsection, the district may operate under either
2 provision, and it is not necessary for the district to designate the
3 law under which action is being taken.

4 Sec. 11003.102. GENERAL AUTHORITY TO ENTER INTO CONTRACTS.

5 (a) The district and a public agency or political subdivision of
6 this state, including the City of Midland, may enter into a contract
7 on terms agreed to by the parties for any purpose relating to the
8 district's powers or functions, including for the purpose of
9 supplying water to the agency or political subdivision.

10 (b) Except as provided by Section 11003.153, the district is
11 not required to:

12 (1) hold an election to obtain voter approval of a
13 contract authorized by this section or otherwise obtain approval of
14 or consent to the contract; or

15 (2) provide notice of the contract.

16 Sec. 11003.103. CONTRACTS TO SUPPLY WATER. (a) The
17 district may contract with a municipality, public agency, special
18 district, other political subdivision of this state, or other
19 entity, including the City of Midland, to:

20 (1) supply water to the entity; or

21 (2) rent or lease or operate the water production,
22 water field, water supply, or water filtration or purification
23 facilities of the entity.

24 (b) Except as provided by Section 11003.153, the district
25 may contract, without holding an election to approve the contract,
26 with a municipality or other political subdivision located not more
27 than 130 miles from the initial boundaries of the district,

1 including the City of Midland, for the operation of the district's
2 water facilities.

3 (c) A contract under this section may be on terms and for the
4 period agreed to by the parties and may provide that the contract
5 will continue in effect until bonds specified in the contract and
6 refunding bonds issued in lieu of the bonds are paid.

7 (d) The district may purchase, sell, treat, transport, and
8 convey water inside and outside the boundaries of the district.

9 (e) The district has all rights, powers, and privileges
10 necessary or useful to enable the district to acquire, provide,
11 supply, deliver, transport, treat, or sell potable or nonpotable
12 water for any beneficial purpose in the district or in territory
13 located:

14 (1) not more than 130 miles from the initial
15 boundaries of the district; and

16 (2) in Pecos, Crane, Upton, Ector, or Midland County.

17 Sec. 11003.104. SOURCES FOR WATER; ACQUISITION OF LAND;
18 STORAGE CAPACITY. (a) The district may acquire, construct, or
19 develop inside or outside the district sources for water, including
20 one or more reservoirs or wells and any work, water field, pump,
21 plant, transmission line, or other facility necessary or useful to
22 develop, divert, impound, drill for, pump, store, treat, or
23 transport water, including groundwater, to the City of Midland or
24 another entity for municipal, domestic, industrial, mining, oil
25 floodings, or other useful purposes.

26 (b) The district may acquire land or an interest in land
27 inside or outside the district for any work, water well, water

1 field, pump, plant, or other facility necessary or useful to
2 develop, divert, impound, drill for, pump, store, treat, or
3 transport water to the City of Midland or another entity for
4 municipal, domestic, industrial, mining, oil flooding, or other
5 useful purposes.

6 (c) The district may purchase water or a water supply from
7 any person, including a public agency.

8 (d) The district may lease, purchase, or otherwise acquire
9 rights in and to storage and storage capacity in any reservoir
10 constructed or to be constructed from any person, including the
11 United States.

12 (e) The district may develop or otherwise acquire sources of
13 groundwater.

14 (f) The district may acquire water appropriation permits
15 directly from the Texas Commission on Environmental Quality or from
16 owners of permits.

17 Sec. 11003.105. ACQUISITION, DISPOSAL, AND MANAGEMENT OF
18 PROPERTY. (a) The district may construct or otherwise acquire all
19 works, plants, and other facilities necessary or useful to:

20 (1) process water impounded, developed, or otherwise
21 acquired; or

22 (2) transport water to municipalities and others for
23 municipal, domestic, or industrial purposes.

24 (b) The district may acquire, own, rent, lease, accept,
25 hold, or dispose of any property, or any interest in property,
26 including a right or easement, by purchase, exchange, gift,
27 assignment, condemnation, sale, lease, or otherwise, in performing

1 district duties or exercising district powers under this chapter.

2 (c) The district may manage, operate, or improve property.

3 (d) The district may lease or rent any land, building,
4 structure, or facility to achieve the purposes of this chapter.

5 (e) The district may sell, assign, lease, encumber,
6 mortgage, or otherwise dispose of property, or an interest in
7 property, and release or relinquish a right, title, claim, lien,
8 interest, easement, or demand by public or private sale, with or
9 without public bidding, notwithstanding any other law.

10 Sec. 11003.106. EMINENT DOMAIN. (a) Notwithstanding any
11 other law, this section applies in addition to any other authority
12 granted by this chapter or other law.

13 (b) Subject to the limitation in Subsection (d), if the
14 district contracts under this chapter with a municipality or other
15 political subdivision of this state to supply water from any public
16 or private source, the district may exercise the power of eminent
17 domain to acquire the fee simple title to or other interest in land,
18 easements, or other private property located inside the district or
19 not more than 130 miles from the initial boundaries of the district
20 for any purpose under this chapter.

21 (c) Section 49.222, Water Code, applies to the district's
22 exercise of eminent domain powers under this section.

23 (d) Before exercising the power of eminent domain to acquire
24 land, an easement, or other property, the district shall first
25 attempt to acquire the property by good faith negotiation.

26 Sec. 11003.107. REGIONAL WASTE DISPOSAL. (a) The district
27 may exercise any power granted by Chapter 30, Water Code, to a water

1 district created under Section 59, Article XVI, Texas Constitution,
2 including the power to collect, transport, process, treat, dispose
3 of, and control all municipal, domestic, industrial, or communal
4 waste, whether in fluid, solid, or composite state, including the
5 control, abatement, or reduction of any type of pollution.

6 (b) The powers granted to the district by Chapter 30, Water
7 Code, are for the purposes of conservation and development of the
8 natural resources of this state within the meaning of Section 59,
9 Article XVI, Texas Constitution.

10 Sec. 11003.108. AUTHORITY FOR ROAD PROJECTS; CONTRACTS. (a)
11 Under Section 52, Article III, Texas Constitution, the district may
12 acquire, construct, improve, operate, and maintain macadamized,
13 graveled, or paved roads, or improvements in aid of those roads,
14 inside or outside the district.

15 (b) The district may enter into a contract for a road
16 project in the manner provided by Subchapter I, Chapter 49, Water
17 Code, for construction work.

18 Sec. 11003.109. WATER CONTROL AND STORAGE PROJECTS. (a)
19 The district may construct, acquire, improve, enlarge, extend,
20 repair, or maintain dams, levees, walls, dikes, embankments,
21 canals, reservoirs, lakes, or other improvements as necessary to
22 control, store, or preserve water in the district for any useful
23 purpose.

24 (b) The district may overflow and inundate district lands
25 and other district property in the district.

26 (c) A project authorized by this section is subject to all
27 applicable permitting and regulatory requirements.

1 Sec. 11003.110. CERTIFICATE OF CONVENIENCE AND NECESSITY.

2 (a) The district may pay out of bond proceeds or other available
3 district money all expenses, including legal, engineering, and
4 other fees, related to obtaining a new certificate of convenience
5 and necessity under Chapter 13, Water Code, authorizing the
6 district to provide retail water or sewer service inside or outside
7 the district.

8 (b) The district may pay out of bond proceeds or other
9 available district money all expenses, including the purchase
10 price, related to acquiring certificate of convenience and
11 necessity rights from another retail public utility to allow the
12 district to provide retail water or sewer service in the district.

13 Sec. 11003.111. CONTRACT WITH POLITICAL SUBDIVISION FOR
14 WATER OR SEWER SERVICES. (a) The district may enter into a
15 contract to allow a political subdivision to provide retail water
16 or sewer service in the district. The contract may contain terms
17 the board considers desirable, fair, and advantageous to the
18 district.

19 (b) The contract may provide that the district will
20 construct or acquire and convey or lease to the political
21 subdivision a water supply or treatment system, a water
22 distribution system, or a sanitary sewage collection or treatment
23 system, as necessary to provide water or sewer service in the
24 district.

25 (c) The district may use bond proceeds or other available
26 district money to pay for its obligations and for services and
27 facilities provided under the contract.

1 (d) If the contract requires the district to make payments
2 from taxes other than operation and maintenance taxes, the contract
3 is subject to Section 49.108, Water Code.

4 [Sections 11003.112-11003.150 reserved for expansion]

5 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

6 Sec. 11003.151. ELECTIONS REGARDING TAXES OR BONDS. (a)
7 The district may issue, without an election, bonds and other
8 obligations secured by:

9 (1) revenue other than ad valorem taxes; or

10 (2) contract payments described by Section 11003.153.

11 (b) The district must hold an election in the manner
12 provided by Chapters 49 and 54, Water Code, to obtain voter approval
13 before the district may impose an ad valorem tax or issue bonds
14 payable from ad valorem taxes.

15 (c) The district may not issue bonds payable from ad valorem
16 taxes to finance a road project unless the issuance is approved by a
17 vote of a two-thirds majority of the district voters voting at an
18 election held for that purpose.

19 Sec. 11003.152. OPERATION AND MAINTENANCE TAX. (a) If
20 authorized at an election held under Section 11003.151, the
21 district may impose an operation and maintenance tax on taxable
22 property in the district in accordance with Section 49.107, Water
23 Code.

24 (b) The board shall determine the tax rate. The rate may not
25 exceed the rate approved at the election.

26 (c) Section 49.107(f), Water Code, does not apply to
27 reimbursements for projects constructed or acquired under Section

1 11003.103.

2 Sec. 11003.153. CONTRACT TAXES. (a) In accordance with
3 Section 49.108, Water Code, the district may impose a tax other than
4 an operation and maintenance tax and use the revenue derived from
5 the tax to make payments under a contract after the provisions of
6 the contract have been approved by a majority of the district voters
7 voting at an election held for that purpose.

8 (b) A contract approved by the district voters may contain a
9 provision stating that the contract may be modified or amended by
10 the board without further voter approval.

11 [Sections 11003.154-11003.200 reserved for expansion]

12 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

13 Sec. 11003.201. AUTHORITY TO ISSUE BONDS AND OTHER
14 OBLIGATIONS. (a) The district may issue bonds or other obligations
15 payable wholly or partly from ad valorem taxes, impact fees,
16 revenue, including revenue received by the district under Chapter
17 311, Tax Code, or Chapter 380, Local Government Code, contract
18 payments, assessments, grants, or other district money, or any
19 combination of those sources, to pay for any authorized district
20 purpose.

21 (b) In addition to the other powers granted to the district
22 by this chapter, the district has the powers of an issuer under
23 Chapter 1371, Government Code, with regard to the issuance of
24 obligations.

25 Sec. 11003.202. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 11003.203. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The West Texas Water Supply District initially
10 includes all the territory contained in the following area:

11 BEING 20 acres of land situated in Section 48, Block 41, T-1-S, and
12 Section 1, Block 41, T-2-S, T&P RR Co. Survey, Midland County,
13 Texas, Boundary Being More Fully Described By Metes and Bounds As
14 Follows:

15 BEGINNING at (Y=10,675,907.69', and X= 1,702,572.75') a 1/2" Iron
16 rod with plastic cap marked "LCA ODESSA TX" set at an interior
17 corner of a 91.466 acre tract as described in Volume 1145, Page 201,
18 Midland County Deed Records and being the east corner of this tract,
19 whence a 1/2" Iron pipe and a large set stone found at the southeast
20 corner of said Section 48 and the northeast corner of said Section 1
21 bears N 34°23'26" W, a distance of 308.35 feet and N 74°59'33" E, a
22 distance of 1424.53 feet;

23 THENCE S 55°30'34" W with a southerly line of said 91.466 acre tract,
24 a distance of 99.59 feet to a 1/2" Iron rod with plastic marked "LCA
25 ODESSA TX" set at the most westerly corner of said 91.466 acre tract
26 and being an interior corner of this tract, whence a found 3/8" Iron
27 rod with plastic cap marked "HOWELL" bears S 76°14'W, a distance of

1 1.24 feet;
2 THENCE S 34°40'37" E with the west line of said 91.466 acre tract, a
3 distance of 299.97 feet to a 1/2" iron rod with plastic cap marked
4 "LCA ODESSA TX" set for the most easterly corner of this tract;
5 THENCE S 55°30'34" W, a distance of 867.04 feet to a 1/2" Iron rod
6 with plastic cap marked "LCA ODESSA TX" set at the most southerly
7 corner of this tract:
8 THENCE N 34°23'26" W, a distance of 933.19 feet to a 1/2" Iron rod
9 with plastic marked "LCA ODESSA TX" set for the most northerly
10 corner of this tract;
11 THENCE N 55°30'34" E, at a distance of 46.29 feet pass the north line
12 of Section 1, Block 41, T-2-S and the south line of Section 48,
13 Block 41, T-1-S, continuing on for a total distance of 965.13 feet
14 to a 1/2" Iron rod with plastic cap marked "LCA ODESSA TX" set in the
15 west line of said 91.466 acre tract and being the most northerly
16 corner of this tract.
17 THENCE S 34°23'26" E with the west line of said 91.466 acre tract, at
18 a distance of 324.87 feet pass the south line of said Section 48 and
19 the north line of said Section 1, continuing on for a total distance
20 of 633.22 feet to the Point of Beginning, containing 20.00 acres of
21 land, more or less.
22 Bearings, distances and coordinates are relative to the Texas
23 Coordinate System, 1983 NAD, Central Zone, with a combined grid
24 factor of 0.999883498 and a theta angle of -00°59'17 at City of
25 Midland GPS Control Monument "191/1788". Acreage is average
26 horizontal surface.

27 SECTION 3. (a) The legal notice of the intention to

1 introduce this Act, setting forth the general substance of this
2 Act, has been published as provided by law, and the notice and a
3 copy of this Act have been furnished to all persons, agencies,
4 officials, or entities to which they are required to be furnished
5 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6 Government Code.

7 (b) The governor, one of the required recipients, has
8 submitted the notice and Act to the Texas Commission on
9 Environmental Quality.

10 (c) The Texas Commission on Environmental Quality has filed
11 its recommendations relating to this Act with the governor, the
12 lieutenant governor, and the speaker of the house of
13 representatives within the required time.

14 (d) All requirements of the constitution and laws of this
15 state and the rules and procedures of the legislature with respect
16 to the notice, introduction, and passage of this Act are fulfilled
17 and accomplished.

18 SECTION 4. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2009.