

1-1 By: Shapiro S.B. No. 715
1-2 (In the Senate - Filed February 6, 2009; February 25, 2009,
1-3 read first time and referred to Committee on Natural Resources;
1-4 March 20, 2009, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; March 20, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the North Texas Municipal Water District.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subsection (b), Section 3, Chapter 62, Acts of
1-11 the 52nd Legislature, Regular Session, 1951, is amended by adding
1-12 Subdivision (13) to read as follows:

1-13 (13) "Bonds" includes negotiable or nonnegotiable
1-14 bonds, notes, certificates, contractual obligations, or other
1-15 obligations of the district.

1-16 SECTION 2. Subsection (b), Section 3, Chapter 62, Acts of
1-17 the 52nd Legislature, Regular Session, 1951, is amended to read as
1-18 follows:

1-19 (b) Each director shall receive a fee of \$150 for each day
1-20 the director spends performing the duties of a director, including
1-21 participating in board and committee meetings, other activities
1-22 involving substantive deliberation of District business, and
1-23 pertinent educational programs ~~[\$50 for attending each meeting of~~
1-24 ~~the board and \$20 per day devoted to the business of the District~~
1-25 ~~other than attending board meetings], but not more than \$7,200~~
1-26 ~~[\$1,200]~~ shall be paid to any director in one calendar year
1-27 ~~[therefor]~~. Each director shall be entitled to reimbursement for
1-28 actual expenses incurred in attending to District business provided
1-29 the service and expense are expressly approved by the Board.

1-30 SECTION 3. Section 4, Chapter 62, Acts of the 52nd
1-31 Legislature, Regular Session, 1951, is amended to read as follows:

1-32 Sec. 4. The board of directors shall elect from its number a
1-33 president and a vice-president of the District, and such other
1-34 officers as in the judgment of the board are necessary. The
1-35 president shall be the ~~[chief executive officer of the District and~~
1-36 ~~the]~~ presiding officer of the board, and shall have the same right
1-37 to vote as any other director. The vice-president shall perform all
1-38 duties and exercise all powers conferred by this Act upon the
1-39 president when the president is absent or fails or declines to act.
1-40 The board shall also appoint a secretary and a treasurer who may or
1-41 may not be members of the board, and it may combine those offices.
1-42 The treasurer shall give bond in such amount as may be required by
1-43 the board of directors, but in no event less than \$100,000.00. The
1-44 condition of such bond shall be that he will faithfully account for
1-45 all money which shall come into his custody as treasurer of the
1-46 District. The board shall appoint an executive director, who shall
1-47 employ or contract with all necessary engineers, attorneys and
1-48 other employees. The board shall adopt a seal for the District.

1-49 SECTION 4. Section 27, Chapter 62, Acts of the 52nd
1-50 Legislature, Regular Session, 1951, is amended by amending
1-51 Subsections (a), (d), (e), (f), (h), (j), and (k) and adding
1-52 Subsection (h-1) to read as follows:

1-53 (a) The district has the functions, powers, authority,
1-54 rights, and duties necessary to accomplish the purposes for which
1-55 the district was created and the purposes authorized by Section 59,
1-56 Article XVI, Texas Constitution, this Act, or any other law. In
1-57 addition to all other powers, the district is authorized to
1-58 purchase, construct, acquire, own, operate, maintain, repair,
1-59 improve, or extend inside and outside its boundaries, at any
1-60 location whatsoever, in the sole discretion of the district, any
1-61 and all property, works, improvements, facilities, plants,
1-62 equipment, and appliances incident, helpful, or necessary to:

1-63 (1) ~~provide[, pursuant to the provisions of Chapters 5~~
1-64 ~~and 6, Water Code, as amended,]~~ for the control, storage,

2-1 preservation, transmission, treatment, and distribution and use of
 2-2 storm water and floodwater, the water of rivers and streams, and
 2-3 underground water, for irrigation, power, hydroelectric, and all
 2-4 other useful purposes, and to supply water for municipal, domestic,
 2-5 power, hydroelectric, industrial, oil flooding, mining, and
 2-6 commercial uses and purposes and all other beneficial uses and
 2-7 purposes;

2-8 (2) collect, transport, process, treat, dispose of,
 2-9 and control all municipal, domestic, industrial, or communal waste
 2-10 whether in fluid, solid, or composite state, including specifically
 2-11 the control, abatement, or reduction of all types of pollution; and
 2-12 it is hereby found and determined by the legislature that all of the
 2-13 aforesaid purposes are for the conservation and development of the
 2-14 natural resources of the state within the meaning of Article XVI,
 2-15 Section 59 of the Texas Constitution.

2-16 (d) The district is a "district" under the Regional Waste
 2-17 Disposal Act, as amended (Chapter 30 [25], Water Code), and all
 2-18 provisions of said Act are applicable to this district except to the
 2-19 extent of any conflict with this Act, in which case the provisions
 2-20 of this Act shall prevail.

2-21 (e) All cities, public agencies, and other political
 2-22 subdivisions are authorized to contract with this district in any
 2-23 manner authorized by the Regional Waste Disposal Act, as amended
 2-24 (Chapter 30 [25], Water Code), provided that any city is authorized
 2-25 to contract with this district in the manner authorized by Section
 2-26 30.030(c), Water Code [25.030(c) of the Regional Waste Disposal
 2-27 Act].

2-28 (f) ~~The [It is further specifically provided that the]~~
 2-29 district and all cities, public agencies, and other political
 2-30 subdivisions shall have all of such rights, powers, and authority
 2-31 with respect to the control, storage, preservation, transmission,
 2-32 treatment, and disposition of storm water and floodwater, and the
 2-33 water of rivers and streams, and underground water as are granted,
 2-34 permitted, and authorized by the Regional Waste Disposal Act, as
 2-35 amended (Chapter 30 [25], Water Code), with respect to waste, waste
 2-36 disposal systems, and treatment facilities. Subsection (e) of this
 2-37 section shall be applicable to contracts made pursuant to this
 2-38 subsection.

2-39 (h) The district may issue bonds to borrow money for any
 2-40 corporate purpose, including the purposes [For the purpose of
 2-41 ~~providing funds to acquire, purchase, construct, improve, enlarge,~~
 2-42 ~~and equip any property, buildings, structures, or other facilities~~
 2-43 ~~for any purpose or power] authorized by this section. ~~The[, the]~~
 2-44 board of directors of the district may issue [revenue] bonds from
 2-45 time to time and in one or more issues or series, to be payable from
 2-46 and secured by liens on and pledges of all or any part of any of the
 2-47 revenues, income, or receipts derived by the district from its
 2-48 ownership, operation, lease, or sale of any [such] property,
 2-49 buildings, structures, or facilities, including the proceeds or
 2-50 revenues from contracts with any person, firm, corporation, city,
 2-51 public agency, or other political subdivision. The [Such] bonds
 2-52 may be issued in certificated form or uncertificated book-entry
 2-53 form to mature serially or otherwise within not to exceed 50 years
 2-54 from their date, and provision may be made for the subsequent
 2-55 issuance of additional parity bonds, or subordinate lien bonds,
 2-56 under any terms or conditions that may be set forth in the
 2-57 resolution authorizing the issuance of the bonds. The [Such]
 2-58 bonds, and any interest coupons appertaining thereto, to the extent
 2-59 issued in negotiable form, are and shall constitute negotiable
 2-60 instruments within the meaning and for all purposes of the Texas
 2-61 Business & Commerce [Uniform Commercial] Code, provided that the
 2-62 bonds may be issued registrable as to principal alone or as to both
 2-63 principal and interest, and shall be executed, and may be made
 2-64 redeemable prior to maturity, and may be issued in such form,
 2-65 denominations, and manner, and under such terms, conditions, and
 2-66 details, and may be sold in such manner, including through a public
 2-67 or private sale, at such price, and under such terms, and said bonds
 2-68 shall bear interest at such rates, including fixed, variable,
 2-69 floating, adjustable, or another method of computation, all as~~

shall be determined and provided in the resolution authorizing the issuance of the bonds. In the bond resolution, the district may authorize one or more designated officers or employees of the district to act on behalf of the district, with the same force and effect as if the action had been taken by the district, in selling and delivering the bonds and setting the dates, prices, interest rates, interest payment periods, and other procedures relating to the bonds, as specified in the bond resolution. If so provided in the bond resolution, the proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, for paying expenses of operation and maintenance of facilities, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds, and such proceeds may be placed on time deposit or invested, until needed, all to the extent and in the manner provided in the bond resolution. The district may pledge all or any part of its revenues, income, or receipts from fees, rentals, rates, charges, and contract proceeds or payments to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, charges, proceeds, or payments shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and operation, maintenance, and other expenses in connection with the aforesaid facilities. The [said] bonds may be additionally secured by mortgages or deeds of trust on any real property owned or to be acquired by the district, and by chattel mortgages or liens on any personal property appurtenant to such real property; and the board of directors of the district may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence same. Also, the district may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

(h-1) If funds are not available to meet any need of the district and the board of directors of the district declares an emergency, the board may issue bond anticipation notes or revenue anticipation notes, or both bond anticipation notes and revenue anticipation notes, to borrow the money needed by the district. Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued. The district may enter into an agreement with a purchaser of bond anticipation notes to use the proceeds from the sale of any bond to pay principal, interest, or redemption price on the bond anticipation notes. Revenue anticipation notes may be issued for any purpose for which the district is authorized to expend revenue of the district. The district may enter into an agreement with a purchaser of revenue anticipation notes to adopt, enforce, and collect charges, fees, rentals, and other amounts for the district's facilities and services that are sufficient to pay the principal of, any redemption premium on, and interest on the revenue anticipation notes.

(j) Chapter 1202, Government Code, applies to the issuance of bonds by the district [All bonds issued pursuant to this section and the appropriate proceedings authorizing their issuance shall be submitted to the Attorney General of the State of Texas for examination. When the bonds are to be issued to finance in whole or in part water-using facilities, except treatment or distribution facilities, before giving his approval the attorney general shall be furnished a resolution from the Texas Water Rights Commission certifying that the district is possessed of the necessary water right authorizing it to impound and appropriate the water to be utilized by the project. Also, if the bonds recite that they are

~~secured by a pledge of revenues of any contract, a copy of such contract and the proceedings relating thereto shall be submitted to the attorney general. If he finds that such bonds have been authorized and any such contract has been made in accordance with law, he shall approve the bonds and any such contract, and thereupon the bonds shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration, such bonds and any such contract shall be incontestable in any court or other forum for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes].~~

(k) All bonds issued pursuant to this section are legal and authorized investments in the same manner as provided by Section 49.186(a), Water Code. The ~~[for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, and trustees, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said]~~ bonds also shall be eligible and lawful security for ~~[all]~~ deposits of public funds in ~~[of]~~ the same manner as provided by Section 49.186(b), Water Code ~~[State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto].~~

SECTION 5. Chapter 62, Acts of the 52nd Legislature, Regular Session, 1951, is amended by adding Section 28 to read as follows:

Sec. 28. If a quorum of the board of directors of the district cannot be assembled due to multiple deaths or injuries resulting from a catastrophe or disaster, any directors who are available, or the highest ranking staff member of the district if no director is available, shall within 24 hours after the catastrophe or disaster has ended, or as soon as practicable under the circumstances, take any action necessary to ensure the basic health, safety, and welfare of the customers of the district and call for the appointment of new directors by the member cities of the district to fill the vacancies on the board resulting from the catastrophe or disaster. Until a quorum of the board of directors can be assembled, any directors who are available, or the highest ranking staff member of the district if no director is available, may only take actions as necessary to protect the basic health, safety, and welfare of the district's customers. The board of directors may subsequently ratify any action taken in accordance with this section.

SECTION 6. Subsection (c), Section 27, Chapter 62, Acts of the 52nd Legislature, Regular Session, 1951, is repealed.

SECTION 7. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as

5-1 provided by Section 39, Article III, Texas Constitution. If this
5-2 Act does not receive the vote necessary for immediate effect, this
5-3 Act takes effect September 1, 2009.

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