

By: Fraser

S.B. No. 794

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the composition of the board of directors of the Central  
3 Colorado River Authority.

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

5 SECTION 1. Subsections (a) and (c), Sections 4, Chapter  
6 338, General Laws, Acts of the 44th Legislature, Regular Session,  
7 1935, are amended to read as follows:

8 (a) The powers, rights, privileges and functions of the  
9 District shall be exercised by a board of five [~~nine~~] directors  
10 (herein called the Board), all of whom shall be residents of and  
11 freehold property taxpayers in the State of Texas and shall be  
12 residents of the District herein created, said five [~~nine~~]  
13 directors of the Board to be appointed by the Governor of the State  
14 of Texas and confirmed by the Senate of Texas. Provided that no  
15 person shall be eligible for such appointment if he has during the  
16 preceding three years before his appointment been employed by an  
17 electric power and light company, gas company, telephone company,  
18 or any other utility company of any kind or character whatsoever.  
19 Directors are appointed for staggered terms of six years with one or  
20 two [~~three~~] directors' terms expiring on February 1 of each  
21 odd-numbered year. At the expiration of the term of any director,  
22 another director shall be appointed by the Governor. Each director  
23 shall hold office until the expiration of the term for which he was  
24 appointed and thereafter until his successor shall have been

1 appointed and qualified, unless sooner removed as in this Act  
2 provided.

3 (c) Until the adoption of by-laws fixing the time and place  
4 of regular meetings and the manner in which special meetings may be  
5 called, meetings of the Board shall be held at such times and places  
6 as a majority [~~five~~] of all the directors may designate in writing.  
7 A majority of the membership of the Board constitutes [~~Five~~  
8 ~~directors shall constitute~~] a quorum at any meeting, and, except as  
9 otherwise provided in this Act, or in the by-laws, all actions may  
10 be taken by the affirmative vote of a majority of the directors  
11 present at any such meeting, except that no contract which involves  
12 an amount greater than Ten Thousand (\$10,000.00) Dollars, or which  
13 is to run for a longer period than a year, and no bonds, notes or  
14 other evidence of indebtedness and no amendment of the by-laws  
15 shall be valid unless authorized or ratified by the affirmative  
16 vote of at least a majority of the entire membership of the Board  
17 [~~five directors~~].

18 SECTION 2. Sections 6, 11, and 15, Chapter 338, General  
19 Laws, Acts of the 44th Legislature, Regular Session, 1935, are  
20 amended to read as follows:

21 Sec. 6. The moneys of the District shall be disbursed only  
22 on checks, drafts, orders or other instruments signed by such  
23 persons as shall be authorized to sign the same by the by-laws, or  
24 resolution concurred in by not less than a majority of the entire  
25 membership of the Board [~~five directors~~]. The General Manager, the  
26 Treasurer and all other officers, agents and employees of the  
27 District who shall be charged with the collection, custody or

1 payment of any funds of the District shall give bond conditioned  
2 upon the faithful performance of their duties and an accounting for  
3 all funds and property of the District coming into their respective  
4 hands, each of which bonds shall be in form and amount and with a  
5 surety (which shall be a surety company authorized to do business in  
6 the State of Texas) approved by the Board, and the premiums on such  
7 bonds shall be paid by the District and charged as an operating  
8 expense.

9       Sec. 11. The District shall have power and is hereby  
10 authorized to issue, from time to time, bonds as herein authorized  
11 for any corporate purpose, not to exceed Five Hundred Thousand  
12 (\$500,000.00) Dollars, in aggregate principal amount. Any  
13 additional amount of bonds must be authorized by an Act of the  
14 Legislature. Such bonds may either be (1) sold for cash, at public  
15 or private sale, at such price or prices as the Board shall  
16 determine, provided that the interest cost of the money received  
17 therefor, computed to maturity in accordance with standard bond  
18 tables in general use by banks and insurance companies, shall not  
19 exceed six (6%) per centum per annum, or (2) may be issued on such  
20 terms as the Board shall determine in exchange for property of any  
21 kind, real, personal, or mixed or any interest therein which the  
22 Board shall determine in exchange for property of any kind, real,  
23 personal or mixed or any interest therein which the Board shall deem  
24 necessary or convenient for any such corporate purpose, or (3) may  
25 be issued in exchange for like principal amounts of other  
26 obligations of the District, matured or unmatured. The proceeds of  
27 sale of such bonds shall be deposited in such bank or banks or trust

1 company or trust companies, and shall be paid out pursuant to such  
2 terms and conditions, as may be agreed upon between the District and  
3 the purchasers of such bonds. All such bonds shall be authorized by  
4 resolution of the Board concurred in by at least a majority of the  
5 entire membership of the Board [~~five of the members thereof~~], and  
6 shall bear such date or dates, mature at such time or times, bear  
7 interest at such rate or rates (not exceeding six (6%) per centum  
8 per annum) payable annually or semiannually, be in such  
9 denominations, be in such form, either coupon or registered, carry  
10 such registration privileges as to principal only or as to both  
11 principal and interest, and as to exchange of coupon bonds for  
12 registered bonds or vice versa, and exchange of bonds of one  
13 denomination for bonds of other denominations, be executed in such  
14 manner and be payable at such place or places within or without the  
15 State of Texas, as such resolution or resolutions may provide. Any  
16 resolution or resolutions authorizing any bonds may contain  
17 provisions, which shall be part of the contract between the  
18 District and the holders thereof from time to time (a) reserving the  
19 right to redeem such bonds at such time or times, in such amounts  
20 and at such prices, not exceeding one hundred five (105%) per centum  
21 of the principal amount thereof, plus accrued interest, as may be  
22 provided; (b) providing for the setting aside of sinking funds or  
23 reserve funds and the regulation and disposition thereof; (c)  
24 pledging to secure the payment of the principal of and interest on  
25 such bonds and of the sinking fund or reserve fund payments agreed  
26 to be made in respect of such bonds all or any part of the gross or  
27 net revenues thereafter received by the District in respect of the

1 property, real, personal or mixed, to be acquired and/or  
2 constructed with such bonds or the proceeds thereof, or all or any  
3 part of the gross or net revenues thereafter received by the  
4 District from whatever source derived; (d) prescribing the purposes  
5 to which such bonds or any bonds thereafter to be issued, or the  
6 proceeds thereof, may be applied; (e) agreeing to fix and collect  
7 rates and charges sufficient to produce revenues adequate to pay  
8 the items specified in subdivisions (a), (b), (c), and (d) of  
9 Section 9 hereof, and prescribing the use and disposition of all  
10 revenues; (f) prescribing limitations upon the issuance of  
11 additional bonds and upon the agreements which may be made with the  
12 purchasers and successive holders thereof; (g) with regard to the  
13 construction, extension, improvement, reconstruction, operation,  
14 maintenance and repair of the properties of the District and  
15 carrying of insurance upon all or any part of said properties  
16 covering loss or damage or loss of use and occupancy resulting from  
17 specified risks; (h) fixing the procedure, if any, by which, if the  
18 District shall so desire, the terms of any contract with the holders  
19 of such bonds may be amended or abrogated, the amount of bonds the  
20 holders of which must consent thereto, and the manner in which such  
21 consent may be given; (i) for the execution and delivery by the  
22 District to a bank or trust company authorized by law to accept  
23 trusts, or to the United States of America or any officer or agency  
24 thereof, of indentures and agreements for the benefit of the  
25 holders of such bonds setting forth any or all of the agreements  
26 herein authorized to be made with or for the benefit of the holders  
27 of such bonds and such other provisions as may be customary in such

1 indentures or agreements; and (j) such other provisions not  
2 inconsistent with the provisions of this Act, as the Board may  
3 approve.

4 Any such resolution and any indenture or agreement entered  
5 into pursuant thereto may provide that in the event that

6 (a) default shall be made in the payment of the interest on  
7 any or all bonds when and as the same shall become due and payable,  
8 or

9 (b) default shall be made in the payment of the principal of  
10 any or all bonds when and as the same shall become due and payable,  
11 whether at the maturity thereof, by call for redemption or  
12 otherwise, or

13 (c) default shall be made in the performance of any  
14 agreement made with the purchasers or successive holders of any  
15 bonds.

16 And such default shall have continued such period, if any, as  
17 may be prescribed by said resolution in respect thereof, the  
18 trustee under the indenture or indentures entered into in respect  
19 of the bonds authorized thereby, or if there shall be no such  
20 indenture, a trustee appointed in the manner provided in such  
21 resolution or resolutions by the holders of twenty-five (25%) per  
22 centum in aggregate principal amount of the bonds authorized  
23 thereby and at the time outstanding may, and upon the written  
24 request of the holders of twenty-five (25%) per centum in aggregate  
25 principal amount of the bonds authorized by such resolution or  
26 resolutions at the time outstanding, shall, in his or its own name,  
27 but for the equal and proportionate benefit of the holders of all of

1 such bonds; and with or without having possession thereof;

2 (1) by mandamus or other suit, action or proceeding at  
3 law or in equity, enforce all rights of the holders of such bonds;

4 (2) bring suit upon such bonds and/or the appurtenant  
5 coupons;

6 (3) by action or suit in equity, require the district  
7 to account as if it were the trustee or an express trust for the  
8 bondholders;

9 (4) by action or suit in equity, enjoin any acts or  
10 things which may be unlawful or in violation of the rights of the  
11 holders of such bonds; and/or

12 (5) after such notice to the District as such  
13 resolution may provide, declare the principal of all such bonds due  
14 and payable, and if all defaults shall have been made good, then  
15 with the written consent of the holders of twenty-five (25%) per  
16 centum in aggregate principal amount of such bonds at the time  
17 outstanding, annul such declaration and its consequences;  
18 provided, however, that the holders of more than a majority in  
19 principal amount of the bonds authorized thereby and at the time  
20 outstanding shall by instrument or instruments in writing delivered  
21 to such trustee have the right to direct and control any and all  
22 action taken or to be taken by such trustee under this paragraph.  
23 Any such resolution, indenture or agreement may provide that in any  
24 such suit, action or proceeding, any such trustee, whether or not  
25 all of such bonds shall have been declared due and payable, and with  
26 or without possession of any thereof, shall be entitled as of right  
27 to the appointment of a receiver who may enter and take possession

1 of all or any part of the properties of the District and operate and  
2 maintain the same, and fix, collect and receive rates and charges  
3 sufficient to provide revenues adequate to pay the items set forth  
4 in subparagraphs (a), (b), (c), and (d) of Section 9 hereof and the  
5 costs and disbursements of such suit, action or proceeding and to  
6 apply such revenues in conformity with the provisions of this Act  
7 and the resolution or resolutions authorizing such bonds. In any  
8 suit, action or proceeding by any such trustee, the reasonable  
9 fees, counsel fees and expenses of such trustee and of the receiver  
10 or receivers, if any, shall constitute taxable disbursements, and  
11 all costs and disbursements allowed by the court shall be a first  
12 charge upon any revenues pledged to secure the payment of such  
13 bonds. Subject to the provisions of the Constitution of the State  
14 of Texas, the courts of the County of Coleman shall have  
15 jurisdiction of any such suit, action or proceeding by any such  
16 trustee on behalf of the bondholders and of all property involved  
17 therein. In addition to the powers hereinabove specifically  
18 provided for, each such trustee shall have and possess all powers  
19 necessary or appropriate for the exercise of any thereof, or  
20 incident to the general representation of the bondholders in the  
21 enforcement of their rights.

22 Before any bonds shall be sold by the District, a certified  
23 copy of the proceedings for the issuance thereof, including the  
24 form of such bonds, together with any other information which the  
25 Attorney General of the State of Texas may require, shall be  
26 submitted to the Attorney General, and if he shall find that such  
27 bonds have been issued in accordance with law, and if he shall



1 approve such bonds, he shall execute a certificate to that effect  
2 which shall be filed in the office of the Comptroller of the State  
3 of Texas and be recorded in a record kept for that purpose. No bonds  
4 shall be issued until the same shall have been registered by the  
5 Comptroller, who shall so register the same if the Attorney General  
6 shall have filed with the Comptroller his certificate approving the  
7 bonds and the proceedings for the issuance thereof as hereinabove  
8 provided.

9 All bonds approved by the Attorney General as aforesaid, and  
10 registered by the Comptroller as aforesaid, and issued in  
11 accordance with the proceedings so approved, shall be valid and  
12 binding obligation of the District and shall be incontestable for  
13 any cause from and after the time of such registration.

14 Sec. 15. Nothing in this Act shall be construed as  
15 authorizing the District, and it shall not be authorized to  
16 mortgage or otherwise encumber any of its property of any kind,  
17 real, personal or mixed, or any interest thereon, or to acquire any  
18 such property or interest subject to a mortgage or conditional  
19 sale, provided that this section shall not be construed as  
20 preventing the pledging of the revenues of the District as herein  
21 authorized. Nothing in this Act shall be construed as authorizing  
22 the sale, lease or other disposition of any such property or  
23 interest by the District, or any receiver of any of its properties  
24 or through any court proceeding or otherwise, provided, however,  
25 that the District may sell for cash any such property or interest in  
26 an aggregate value not exceeding the sum of Fifty Thousand  
27 (\$50,000.00) Dollars, in any one year if the Board, by the

1 affirmative vote of a two-thirds majority of the entire membership  
2 of the Board [~~six of the members thereof~~] shall have determined that  
3 the same is not necessary or convenient to the business of the  
4 District and shall have approved the terms of any such sale, it  
5 being the intention of this Act that except by sale as in this  
6 section expressly authorized, no such property or interest except  
7 personal property shall ever come into the ownership or control,  
8 directly or indirectly, of any person, firm or corporation other  
9 than a public authority created under the laws of the State of  
10 Texas. All property of the District except personal property shall  
11 be at all times exempted from forced sale, and nothing in this Act  
12 contained shall authorize the sale of any of the property of the  
13 District except personal property under any judgment rendered in  
14 any suit, and such sales are hereby prohibited and forbidden.

15 SECTION 3. (a) The change in law made by this Act does not  
16 affect the term of a member of the board of directors of the Central  
17 Colorado River Authority serving on the effective date of this Act.  
18 Except as provided by Section 4 of this Act, members appointed to  
19 fill vacancies occurring on or after the effective date of this Act  
20 must be appointed in accordance with Section 4, Chapter 338,  
21 General Laws, Acts of the 44th Legislature, Regular Session, 1935,  
22 as amended by this Act.

23 (b) The change in law made by this Act does not prohibit a  
24 person who is a member of the Central Colorado River Authority board  
25 of directors before the effective date of this Act from being  
26 appointed as a member of the board of directors under the new  
27 composition of the board of directors if the person is otherwise

1 qualified.

2 SECTION 4. (a) In this section, "board" means the board of  
3 directors of the Central Colorado River Authority.

4 (b) To maintain a board with an odd number of directors  
5 during the transition from a board of nine to a board of five  
6 directors, the governor shall make appointments to the board as  
7 provided by Subsections (c) through (f) of this section.

8 (c) When the terms of members of the board expire on  
9 February 1, 2009, the governor shall appoint one director whose  
10 term expires February 1, 2015.

11 (d) When the terms of members of the board expire on  
12 February 1, 2011, the governor shall appoint one director whose  
13 term expires February 1, 2017.

14 (e) When the terms of members of the board expire on  
15 February 1, 2013, the governor shall appoint:

- 16 (1) one director whose term expires February 1, 2015;  
17 (2) one director whose term expires February 1, 2017;  
18 and  
19 (3) one director whose term expires February 1, 2019.

20 (f) A member of the board appointed on or after February 1,  
21 2017, shall be appointed to a term as provided by Section 4, Chapter  
22 338, General Laws, Acts of the 44th Legislature, Regular Session,  
23 1935, as amended by this Act.

24 SECTION 5. (a) The legal notice of the intention to  
25 introduce this Act, setting forth the general substance of this  
26 Act, has been published as provided by law, and the notice and a  
27 copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished  
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
3 Government Code.

4 (b) The governor, one of the required recipients, has  
5 submitted the notice and Act to the Texas Commission on  
6 Environmental Quality.

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

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

15 SECTION 6. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2009.