

By: Eltife

S.B. No. 1223

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation, administration, powers, duties, and
3 operation of the Riverbend Water Resources District; providing
4 authority to issue bonds and exercise the power of eminent domain.

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

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

8 SUBTITLE L. MUNICIPAL WATER DISTRICTS

9 CHAPTER 9601. RIVERBEND WATER RESOURCES DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 9601.001. DEFINITIONS. In this chapter:

12 (1) "Board" means the board of directors of the
13 district.

14 (2) "Bond" has the meaning assigned to the term
15 "public security" by Section 1202.001, Government Code.

16 (3) "Director" means a person appointed to the board.

17 (4) "District" means the Riverbend Water Resources
18 District.

19 (5) "Member" means a municipality, county, or other
20 political subdivision that is a member of the district as provided
21 by Section 9601.005.

22 Sec. 9601.002. NATURE OF DISTRICT. The district is a
23 conservation and reclamation district created under and essential
24 to accomplish the purposes of Section 59, Article XVI, Texas

1 Constitution.

2 Sec. 9601.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)

3 The district is created to serve a public use and benefit.

4 (b) All land and other property included in the boundaries
5 of the district will benefit from the works and projects
6 accomplished by the district under the powers conferred by Section
7 59, Article XVI, Texas Constitution.

8 (c) The accomplishment of the purposes stated in this
9 chapter is for the benefit of the people of this state and the
10 improvement of their property and industries and will foster and
11 encourage economic development in this state.

12 (d) The district, in carrying out the purposes of this
13 chapter, will be performing an essential public function under the
14 constitution.

15 Sec. 9601.004. LIBERAL CONSTRUCTION OF CHAPTER. This
16 chapter shall be liberally construed to effect the purposes,
17 powers, rights, and functions stated in this chapter.

18 Sec. 9601.005. DISTRICT MEMBERS. (a) The district is
19 composed of the following members:

- 20 (1) the City of Annona;
21 (2) the City of Avery;
22 (3) the City of DeKalb;
23 (4) the City of Hooks;
24 (5) the City of Maud;
25 (6) the City of New Boston;
26 (7) the City of Texarkana, Texas;
27 (8) the City of Wake Village; and

1 (9) the Red River Redevelopment Authority.

2 (b) After receipt of a petition from the governing body of a
3 municipality, county, or other political subdivision that desires
4 to join the district, the board may add a member to the district, on
5 terms determined by the board to be in the best interests of the
6 district.

7 (c) A member's withdrawal from the district or the cessation
8 of existence of a member does not affect the validity of the
9 district or any of the district's powers or duties.

10 Sec. 9601.006. DISTRICT TERRITORY. (a) The territory of the
11 district is composed of all the territory contained in:

12 (1) the cities of Annona, Avery, DeKalb, Hooks, Maud,
13 New Boston, Texarkana, Texas, and Wake Village; and

14 (2) the Red River Redevelopment Authority, the
15 boundaries of which are described by Section 3503.004, including
16 territory that may be added under Section 3503.005.

17 (b) The territory of the district also includes all of the
18 territory:

19 (1) of any municipality, county, or other political
20 subdivision that joins the district as a member; and

21 (2) added to the territory of a member by annexation or
22 other means.

23 (c) A defect in the description of the boundaries of a
24 member or in any past or future proceedings for the annexation of
25 territory by a member does not affect the validity, powers, or
26 duties of the district.

27 Sec. 9601.007. CONFIRMATION ELECTION NOT REQUIRED. (a)

1 The board is not required to hold an election to confirm the
2 district's creation.

3 (b) Sections 49.101-49.105, Water Code, do not apply to the
4 district.

5 [Sections 9601.008-9601.050 reserved for expansion]

6 SUBCHAPTER B. BOARD OF DIRECTORS

7 Sec. 9601.051. COMPOSITION OF BOARD; TERMS. (a) The
8 district is governed by its board.

9 (b) The governing body of each member shall appoint a
10 director to represent the member on the board and shall promptly
11 fill a vacancy in that board position in accordance with the
12 member's policies, resolutions, and procedures.

13 (c) Except as provided by Subsection (d), directors serve
14 staggered terms of four years.

15 (d) A director who is also an elected official of a
16 political subdivision serves for a term coinciding with the term of
17 the elected office.

18 (e) The board shall determine the method of staggering the
19 terms of the directors.

20 (f) A director may serve consecutive terms.

21 Sec. 9601.052. QUALIFICATIONS FOR OFFICE. To be eligible to
22 be appointed or to serve as a director, a person must be a resident,
23 qualified voter of the district.

24 Sec. 9601.053. BOARD RESOLUTIONS; VOTING REQUIREMENTS. (a)
25 The district shall act through orders or resolutions adopted by the
26 board.

27 (b) All directors are entitled to vote.

1 Sec. 9601.054. OFFICERS AND ASSISTANTS. (a) The board
2 shall elect a president, vice president, secretary, and treasurer.

3 (b) The board shall elect the president and vice president
4 from among the directors.

5 (c) The president and vice president serve for a one-year
6 term.

7 (d) The offices of secretary and treasurer:

8 (1) may be held by one person; and

9 (2) are not required to be held by a director.

10 (e) The board may appoint one or more assistant officers who
11 are not required to be directors.

12 (f) A person may not concurrently hold the offices of board
13 president and secretary.

14 Sec. 9601.055. MEETINGS. The board shall have regular
15 meetings at times specified by board resolution or bylaws and shall
16 have special meetings when called by the board president or by a
17 number of directors that is equal to or greater than the number of
18 directors that is one less than a majority of the board.

19 Sec. 9601.056. TELEPHONE CONFERENCE CALL MEETINGS. (a) The
20 board may hold an open or closed meeting by telephone conference
21 call only if:

22 (1) the meeting is a special called meeting;

23 (2) immediate action is required; and

24 (3) convening a quorum of the board at one location is
25 difficult or impossible.

26 (b) A telephone conference call meeting is subject to the
27 notice requirements applicable to other meetings of the board.

1 (c) Each part of a telephone conference call meeting that is
2 required to be open to the public shall be made audible to the
3 public at the location specified in the notice of the meeting as the
4 location of the meeting.

5 (d) The location designated in the notice as the location of
6 the meeting shall provide two-way communication during the entire
7 telephone conference call meeting, and the identification of each
8 party to the telephone conference shall be clearly stated prior to
9 speaking.

10 (e) Section 551.125, Government Code, does not apply to a
11 meeting held under this section.

12 Sec. 9601.057. RECALL. A director may be recalled at any
13 time by the governing body of the member that appointed the
14 director.

15 Sec. 9601.058. COMPENSATION; REIMBURSEMENT. A director is
16 not entitled to compensation for service on the board but is
17 entitled to be reimbursed for necessary expenses incurred in the
18 performance of official duties.

19 Sec. 9601.059. BOARD POSITION NOT A CIVIL OFFICE OF
20 EMOLUMENT. (a) A position on the board may not be construed to be a
21 civil office of emolument for any purpose, including a purpose
22 described in Section 40, Article XVI, Texas Constitution.

23 (b) An elected official of any county, municipality, or
24 other political subdivision in the territory of the district may be
25 appointed to and serve on the board as a director without penalty or
26 forfeiture of office.

27 [Sections 9601.060-9601.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9601.101. GENERAL POWERS. Except as provided by this chapter, the district may exercise the powers applicable to a district under Chapter 49, Water Code.

Sec. 9601.102. SPECIFIC POWERS. The district may exercise any power necessary or appropriate to achieve the purposes of this chapter, including the power to:

(1) adopt and enforce:

(A) a trade name or trademark;

(B) bylaws and rules for the conduct of the affairs of the district;

(C) any rule that a water control and improvement district may adopt and enforce in accordance with Sections 51.127-51.130, Water Code; and

(D) specific rates, charges, fees, or rentals, and reasonable rules and regulations, for providing any district commodity, facility, or service;

(2) in the manner and to the extent permitted by this chapter:

(A) borrow money for a district purpose;

(B) enter into an agreement in connection with the borrowing;

(C) issue bonds for money borrowed;

(D) provide for and secure the payment of the bonds; and

(E) provide for the rights of the holders of the bonds;

1 (3) acquire any and all storage rights and storage
2 capacity in a reservoir or other water source inside or outside the
3 boundaries of the district, and acquire the right to take water from
4 that reservoir or source, subject to the rights or permits held by
5 municipalities or other persons, and in accordance with any
6 contract or contracts that the district may make with the United
7 States, any state of the United States, or any political
8 subdivision of any state of the United States, in reference to those
9 rights;

10 (4) construct, acquire, own, finance, operate,
11 maintain, sell, lease as lessor or lessee, dispose of, or otherwise
12 use any work, plant, or other district facility as defined by
13 Section 49.001, Water Code, inside or outside the boundaries of the
14 district, that the board determines is necessary or useful for the
15 exercise of a district power; and

16 (5) pledge all or part of district revenue to the
17 payment of district obligations under a contract or agreement to
18 the same extent and on the same conditions as the district may
19 pledge revenue to secure district bonds.

20 Sec. 9601.103. GENERAL POWERS REGARDING WATER. The
21 district has all rights, powers, and privileges necessary or useful
22 to enable it to acquire, provide, supply, deliver, and sell water,
23 whether processed or unprocessed, raw or potable, inside or
24 outside its boundaries to any person for any beneficial purpose.

25 Sec. 9601.104. AUTHORITY OF PUBLIC AGENCIES AND POLITICAL
26 SUBDIVISIONS TO CONTRACT WITH DISTRICT. (a) A public agency or a
27 county, municipality, or other political subdivision of this state

1 or another state may enter into a contract or agreement with the
2 district, on terms agreed to by the parties, for:

3 (1) the purchase or sale of water;

4 (2) waste collection, transportation, processing, or
5 disposal; or

6 (3) any purpose relating to the district's powers or
7 functions.

8 (b) A contract or agreement under this section must comply
9 with Chapter 791, Government Code.

10 (c) A provision of district services or facilities to a
11 member or an exercise of district power regarding a member's retail
12 services may only be made through a contract between the district
13 and the member under this section.

14 Sec. 9601.105. CONVEYANCE OF PROPERTY TO DISTRICT. A public
15 agency or a county, municipality, or other political subdivision of
16 this state may lease, sell, or otherwise convey to the district, for
17 any consideration that the parties agree is adequate, any of its
18 land, improvements, property, plants, lines, or other facilities
19 related to:

20 (1) the supply, delivery, or sale of water;

21 (2) waste collection, transportation, processing, or
22 disposal; or

23 (3) garbage collection or disposal.

24 Sec. 9601.106. ACQUISITION OF EXISTING FACILITIES. If the
25 district acquires existing works, improvements, facilities,
26 plants, equipment, or appliances that are completed, partially
27 created, or under construction, the district may:

1 (1) assume the contracts and obligations of the
2 previous owner; and

3 (2) perform the obligations of the previous owner in
4 the same manner and to the same extent that any other purchaser or
5 assignee would be bound.

6 [Sections 9601.107-9601.150 reserved for expansion]

7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8 Sec. 9601.151. PROHIBITION ON ASSESSMENTS OR TAXES. (a)

9 The district may not under this chapter or any other law impose an
10 assessment on real property or an ad valorem tax or create a debt
11 payable from an assessment on real property or an ad valorem tax.

12 (b) Sections 49.106-49.108, Water Code, do not apply to the
13 district.

14 Sec. 9601.152. DEPOSITORY. District money shall be
15 deposited in the depository or depositories designated by the
16 board, except that:

17 (1) bond proceeds and money pledged to pay bonds, to
18 the extent provided in the proceedings authorizing the issuance of
19 bonds, or the trust indenture securing the bonds, may be deposited
20 with another depository or trustee named in the proceedings or
21 trust indenture; and

22 (2) money shall be remitted to each paying agent for
23 the payment of principal of and interest on the bonds.

24 Sec. 9601.153. INVESTMENT OF DISTRICT MONEY. (a) Chapter
25 2256, Government Code, applies to the district and the investment
26 of district funds and funds under district control.

27 (b) The board may invest bond proceeds in a manner

1 determined by the board or in the manner permitted or required in
2 the proceedings authorizing the issuance of bonds or in the trust
3 indenture securing the bonds.

4 Sec. 9601.154. DISTRICT FACILITIES EXEMPT FROM TAXATION AND
5 ASSESSMENT. The district is not required to pay a tax or assessment
6 on its facilities or any part of its facilities.

7 [Sections 9601.155-9601.200 reserved for expansion]

8 SUBCHAPTER E. BONDS

9 Sec. 9601.201. AUTHORITY TO ISSUE BONDS. (a) The district
10 by resolution may authorize the issuance of bonds payable from and
11 secured by revenue or any other available source of district money
12 to carry out a power conferred by this chapter. Bonds issued by the
13 district are not a direct obligation of any member.

14 (b) The bonds must be issued in the manner and under the
15 terms of the proceedings authorizing the issuance of the bonds.

16 (c) Bonds may be issued by the district without an election.

17 (d) Sections 49.181-49.186, Water Code, do not apply to the
18 district.

19 Sec. 9601.202. FORM OF BONDS. District bonds must be:

20 (1) issued in the district's name; and

21 (2) signed by the officers of the district in
22 accordance with the proceedings authorizing the issuance of the
23 bonds.

24 Sec. 9601.203. MATURITY. District bonds must mature not
25 later than 50 years after the date of their issuance.

26 Sec. 9601.204. BONDS SECURED BY REVENUE; ADDITIONAL BONDS.

27 (a) Bonds may be secured by a pledge of all or part of the district's

1 revenue, or by all or part of the payments or rentals under one or
2 more contracts or leases specified by the proceedings authorizing
3 the issuance of the bonds.

4 (b) The proceedings authorizing the issuance of bonds
5 secured by a pledge of revenue of all or part of the district's
6 facilities may provide that the district shall first pay the
7 expenses of operating and maintaining all or part of the facilities
8 as the board considers appropriate before paying the principal of
9 and interest on the bonds.

10 (c) In the proceedings authorizing the issuance of bonds
11 secured by revenue, contract payments, or lease rentals, the
12 district may reserve the right, under conditions specified by the
13 proceedings, to issue additional bonds that will be on a parity
14 with, superior to, or subordinate to the bonds then being issued.

15 Sec. 9601.205. ADDITIONAL SECURITY. (a) At the discretion
16 of the board, bonds may be additionally secured by a deed of trust
17 or mortgage lien on all or part of the district's physical
18 property, facilities, easements, water rights and appropriation
19 permits, leases, contracts, and all rights appurtenant to the
20 property, vesting in the trustee power to:

- 21 (1) sell the property for the payment of the bonds;
22 (2) operate the property; and
23 (3) take other action to further secure the bonds.

24 (b) A purchaser under a sale under the deed of trust lien, if
25 one is given, is:

- 26 (1) the absolute owner of the property, facilities,
27 and rights purchased; and

1 (2) entitled to maintain and operate the property,
2 facilities, and rights.

3 Sec. 9601.206. DELEGATION OF AUTHORITY. (a) In connection
4 with the issuance of bonds, the board may:

5 (1) prescribe the maximum principal amount of bonds to
6 be issued and the maximum rate of interest the bonds may bear;

7 (2) recite the public purpose for which the bonds are
8 to be issued;

9 (3) delegate to any officer or employee of the
10 district the authority to effect the sale of the bonds; and

11 (4) determine the period during which the delegation
12 authority under Subdivision (3) may be exercised.

13 (b) In exercising the authority delegated by the board to an
14 officer or employee, the officer or employee may establish the
15 terms and details related to the issuance and sale of the bonds,
16 including:

17 (1) the form and designation of the bonds;

18 (2) the principal amount of the bonds and the amount of
19 the bonds to mature in each year;

20 (3) the dates, price, interest rates, interest payment
21 dates, principal payment dates, and redemption features of the
22 bonds;

23 (4) the execution of agreements determined by the
24 officer or employee to be necessary in connection with the issuance
25 of the bonds; and

26 (5) any other details relating to the issuance and
27 sale of the bonds as specified by the board in the proceedings

1 authorizing the issuance of the bonds.

2 (c) A finding or determination made by an officer or
3 employee acting under the authority delegated to the officer or
4 employee has the same force and effect as a finding or determination
5 made by the board.

6 Sec. 9601.207. TRUST INDENTURE. District bonds authorized
7 by this chapter, including refunding bonds, may be additionally
8 secured by a trust indenture. The trustee may be a bank with trust
9 powers that is located inside or outside the state.

10 Sec. 9601.208. CREDIT AGREEMENT. In connection with the
11 issuance of bonds under this chapter, the board may exercise the
12 authority granted to the governing body of an issuer with regard to
13 the execution and delivery of a credit agreement under Chapter
14 1371, Government Code.

15 Sec. 9601.209. CHARGES FOR DISTRICT SERVICES. If bonds
16 payable wholly from revenue are issued, the board shall set and
17 revise the rates, fees, and charges assessed for water sold, waste
18 collection and treatment services provided, and garbage collection
19 services provided by the district. The rates, fees, and charges
20 must be sufficient to:

21 (1) pay the expense of operating and maintaining the
22 district facilities that generate the revenue from which the bonds
23 may or will be paid;

24 (2) pay the principal of and interest on the bonds when
25 due; and

26 (3) maintain the reserve fund and other funds as
27 provided in the proceedings authorizing the issuance of bonds or

1 the trust indenture securing the bonds.

2 Sec. 9601.210. STATE PLEDGE REGARDING RIGHTS AND REMEDIES
3 OF BONDHOLDERS. Without depriving this state of its power to
4 regulate and control the rates, fees, and charges assessed for
5 water sold and waste collection and treatment services provided by
6 the district, the state pledges to and agrees with the holders of
7 district bonds that the state will not exercise its power to
8 regulate and control the rates, fees, and charges in any way that
9 would impair the rights or remedies of the holders of the bonds.

10 Sec. 9601.211. USE OF BOND PROCEEDS. In addition to the
11 permitted use of bond proceeds provided by general law, the
12 district may use proceeds from the sale of bonds:

13 (1) for the payment of interest on the bonds while the
14 project or facility is being acquired or constructed and for the
15 year after it is acquired or constructed;

16 (2) for the operation and maintenance of the project
17 or facility during the estimated period of acquisition or
18 construction of the project or facility and for one year after it is
19 acquired or constructed;

20 (3) for a debt service reserve fund;

21 (4) for other funds as may be provided in the
22 proceedings authorizing the issuance of bonds or in the trust
23 indenture securing the bonds;

24 (5) to pay any expense necessarily incurred in
25 accomplishing the purpose of the district, including any expense of
26 issuing and selling the bonds; and

27 (6) to pay any costs incurred under the terms of a

1 credit agreement.

2 Sec. 9601.212. ADDITIONAL AUTHORITY TO PROVIDE DEBT SERVICE
3 RESERVE. (a) The board may provide that in lieu of or in addition to
4 providing for the funding of a debt service reserve fund with cash,
5 a line or letter of credit or an insurance policy may be used for the
6 debt service reserve fund.

7 (b) Any agreement under which a line or letter of credit or
8 insurance policy is provided must be submitted to the attorney
9 general for examination and approval. After approval, the
10 agreement is incontestable in any court or other forum for any
11 reason and is a valid and binding obligation of the district in
12 accordance with its terms for all purposes.

13 Sec. 9601.213. REFUNDING BONDS. (a) The district may issue
14 refunding bonds to refund all or part of its outstanding bonds
15 issued under this chapter, including matured but unpaid interest
16 and obligations incurred under a credit agreement.

17 (b) Refunding bonds may be issued in the manner provided by
18 Chapter 1207, Government Code.

19 Sec. 9601.214. REMEDIES AND COVENANTS. The proceedings
20 authorizing the issuance of any bonds authorized under this
21 chapter, including refunding bonds, the execution of a trust
22 indenture securing the bonds, and the execution of a credit
23 agreement, may provide other remedies and covenants the board
24 considers necessary to issue the bonds on terms the board
25 determines to be most favorable to the district.

26 Sec. 9601.215. LIMITATION ON RIGHTS OF BONDHOLDERS. The
27 proceedings authorizing the issuance of bonds or the trust

1 indenture securing the bonds may limit or qualify the rights of the
2 holders of less than all of the outstanding bonds payable from the
3 same source to institute or prosecute litigation affecting the
4 district's property or income.

5 Sec. 9601.216. BONDS EXEMPT FROM TAXATION. Payments made
6 by the district in connection with the issuance of bonds, the
7 transfer of any bond, and the income from any bond, including
8 profits made on the sale of any bond, are exempt from taxation in
9 this state.

10 Sec. 9601.217. APPOINTMENT OF RECEIVER. (a) On default or
11 threatened default in the payment of the principal of or interest on
12 obligations incurred by the district in connection with the
13 issuance of bonds that are payable wholly or partly from revenue, a
14 court may, on petition of the holders of at least 25 percent of the
15 district's outstanding revenue bonds, or the party to a credit
16 agreement, appoint a receiver for the district.

17 (b) The receiver may collect and receive all district
18 revenue, employ and discharge district agents and employees, take
19 charge of money on hand, and manage the district's proprietary
20 affairs without the consent of or hindrance by the board.

21 (c) The receiver may be authorized to sell or contract for
22 the sale of water, the collection or treatment of waste, or the
23 provision of garbage collection or disposal services, or to renew
24 contracts with the approval of the court that appointed the
25 receiver.

26 (d) The court may vest the receiver with any other power or
27 duty the court finds necessary to protect the holders of the bonds

1 or the party to a credit agreement.

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

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

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

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

19 SECTION 3. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2009.