

By: Thompson of Brazoria

H.B. No. 4690

Substitute the following for H.B. No. 4690:

By: Farrar

C.S.H.B. No. 4690

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the territory, powers, and administration of the Gulf  
3 Coast Water Authority.

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

5 SECTION 1. Sections 2 and 3, Chapter 712, Acts of the 59th  
6 Legislature, Regular Session, 1965, are amended to read as follows:

7 Sec. 2. The District's territory is [~~District shall be~~  
8 ~~comprised of all of the territory contained within Galveston~~  
9 ~~County, Texas, and its boundaries shall be the same as and~~  
10 coextensive with the boundaries of Brazoria, Fort Bend, and  
11 Galveston Counties [~~County, Texas~~].

12 Sec. 3. Except as expressly limited by this Act, the  
13 District shall have and exercise and is hereby vested with all  
14 rights, powers, privileges, and authority conferred by the General  
15 Laws of this State now in force or hereafter enacted applicable to  
16 municipal utility districts created under authority of Section 59  
17 of Article XVI, Constitution of Texas including without limitation  
18 those conferred by Chapters 49 and [~~Chapter~~] 54, Water Code, as  
19 amended, but to the extent that the provisions of such General Laws  
20 may be in conflict or inconsistent with the provisions of this Act,  
21 the provisions of this Act shall prevail. All such General Laws are  
22 hereby adopted and incorporated by reference with the same effect  
23 as if incorporated in full in this Act. Without in any way limiting  
24 the generalization of the foregoing, it is expressly provided that

1 the District shall have, and is hereby authorized to exercise, the  
2 following rights, powers, privileges and functions:

3 (a) the power to make, construct, or otherwise acquire  
4 improvements either within or without the boundaries thereof  
5 necessary to carry out the powers and authority granted by this Act  
6 and said General Laws and to exercise the power of eminent domain  
7 for such purposes; provided, however, that the District shall not  
8 have the power of eminent domain as to all or any part of the water  
9 supply, property, works or facilities of any private person or  
10 persons, or of any private or public corporation or association  
11 engaged in the business of supplying water in Brazoria County, Fort  
12 Bend County, or Galveston County, Texas, to any class of consumers  
13 for any use upon the effective date of this Act, but this provision  
14 shall not restrict the power of the District to acquire necessary  
15 crossing easements and rights-of-way;

16 (b) to conserve, store, transport, treat and purify,  
17 distribute, sell and deliver water, both surface and underground,  
18 to persons, corporations, both public and private, political  
19 subdivisions of the State and others, and to purchase, construct or  
20 lease all property, works and facilities, both within and without  
21 the District, necessary or useful for such purposes;

22 (c) to acquire water supplies from sources both within or  
23 without the boundaries of the District and to sell, transport and  
24 deliver water to customers situated within or without the District  
25 and to acquire all properties and facilities necessary or useful  
26 for such purposes, and for any or all of such purposes to enter into  
27 contracts with persons, corporations, both public and private, and

1 political subdivisions of the State for such periods of time and on  
2 such terms and conditions as the Board of Directors may deem  
3 desirable;

4 (d) subject to the provisions of this Act, to sell, lease,  
5 or exchange any property of any kind, or any interest therein, which  
6 is not necessary to the carrying on of the business of the District  
7 or the sale, lease, or exchange of which, in the judgment of the  
8 Board of Directors, is necessary for the exercise of the powers,  
9 rights, privileges, and functions conferred upon the District by  
10 this Act or by Chapters 49 and [~~Chapter~~] 54, Water Code, as amended;

11 (e) subject to the provisions of this Act, to acquire by  
12 purchase, lease, gift, or otherwise, and to maintain, use, and  
13 operate any and all property of any kind, or any interest therein,  
14 within or without the boundaries of the District, necessary to the  
15 exercise of the powers, rights, privileges, and functions conferred  
16 by this Act or by Chapters 49 and [~~Chapter~~] 54, Water Code, as  
17 amended;

18 (f) to construct, extend, improve, maintain, and  
19 reconstruct, to cause to be constructed, extended, improved,  
20 maintained, and reconstructed, and to use and operate, any and all  
21 facilities of any kind necessary to the exercise of such powers,  
22 rights, privileges, and functions;

23 (g) to sue and be sued in its corporate name;

24 (h) to adopt, use, and alter a corporate seal;

25 (i) to invest and reinvest its funds;

26 (j) to make bylaws for management and regulation of its  
27 affairs;

1 (k) to appoint officers, agents, and employees, to  
2 prescribe their duties and fix their compensation;

3 (l) to make contracts and to execute instruments convenient  
4 or necessary to the exercise of the powers, rights, privileges, and  
5 functions conferred by this Act or Chapters 49 and [~~Chapter~~ 54,  
6 Water Code, as amended, for such term and with such provisions as  
7 the Board of Directors may determine to be in the best interests of  
8 the District, including, without in any way limiting the generality  
9 of the foregoing, contracts with persons including the State of  
10 Texas, the United States of America and any corporation or agency  
11 thereof and districts, cities, towns, persons, organizations,  
12 firms, corporations or other entities as the Board of Directors may  
13 deem necessary or proper for or in connection with any of its  
14 corporate purposes;

15 (m) to borrow money for its corporate purposes and, without  
16 limiting the generality of the foregoing, to borrow money, apply  
17 for and receive loans, secure obligations under a loan or other  
18 contract for borrowed money with a pledge of district revenues or  
19 the proceeds of future borrowings, and accept grants or  
20 contributions, directly or indirectly, from persons, including the  
21 State of Texas, the United States of America, or from any  
22 corporation, agency, or entity created or designated by the State  
23 of Texas or the United States of America, and in connection with any  
24 such loan, ~~or~~ grant, or contribution, to enter into such  
25 agreements as the State of Texas, the United States of America, or  
26 any such corporation, agency, or entity may require; and to make and  
27 issue its negotiable bonds or notes for money borrowed, in the

1 manner and to the extent provided in this Act, and to refund or  
2 refinance any outstanding bonds, ~~[or]~~ notes, or loans, and to make  
3 and issue its negotiable bonds or notes therefor in the manner  
4 provided in this Act.

5 SECTION 2. Chapter 712, Acts of the 59th Legislature,  
6 Regular Session, 1965, is amended by adding Sections 3B and 3C to  
7 read as follows:

8 Sec. 3B. (a) In this section, "person" includes an  
9 individual, entity, partnership, or corporation. The term does not  
10 include a political subdivision or public agency.

11 (b) This section does not apply to a contract for  
12 architectural or engineering services. Section 2254.004,  
13 Government Code, applies to the procurement of architectural or  
14 engineering services.

15 (c) Competitive bidding and contract procurement or  
16 delivery requirements otherwise applicable to the District do not  
17 apply to a contract or agreement made by the District with a person  
18 if:

19 (1) the contract or agreement relates to a project for  
20 the acquisition or construction of equipment or facilities for the  
21 production, treatment, transmission, or delivery of water; and

22 (2) payments made under the contract or agreement are  
23 for amounts substantially sufficient to finance a project described  
24 in Subdivision (1) of this subsection.

25 Sec. 3C. (a) The Board by resolution may authorize the  
26 creation of a nonprofit corporation to assist and act for the  
27 District in implementing a project or providing a service

1 authorized by this Act.

2 (b) The nonprofit corporation:

3 (1) has each power of and is considered to be a local  
4 government corporation created under Subchapter D, Chapter 431,  
5 Transportation Code; and

6 (2) may implement any project and provide any service  
7 authorized by this Act.

8 (c) The Board shall appoint the board of directors of the  
9 nonprofit corporation. The board of directors of the nonprofit  
10 corporation shall serve at the will of the District and in the same  
11 manner as the board of directors of a local government corporation  
12 created under Subchapter D, Chapter 431, Transportation Code.

13 (d) The nonprofit corporation may not:

14 (1) participate in a project that the District is not  
15 authorized to participate in;

16 (2) impose taxes; or

17 (3) acquire, construct, or operate parks or  
18 recreational facilities.

19 SECTION 3. Sections 4(a) and (f), Chapter 712, Acts of the  
20 59th Legislature, Regular Session, 1965, are amended to read as  
21 follows:

22 (a) The District shall have no power or authority to levy  
23 and collect taxes on any property real, personal or mixed, within  
24 the boundaries of said District, nor shall the District have power  
25 or authority to issue bonds or create indebtedness which would in  
26 any way be payable from ad valorem taxes levied by the District upon  
27 property within said District; and provided further that said

1 District shall have none of the powers conferred by General Law for  
2 the purposes of the collection, transportation, processing,  
3 disposal and control of domestic, industrial or communal wastes,  
4 and the gathering, conducting, directing and controlling of local  
5 storm waters, or other local harmful excesses of water except as  
6 directly related to the production and purification of water for  
7 agricultural, municipal, or industrial purposes, including the  
8 ownership, lease, or operation of a municipal wastewater treatment  
9 facility in which the effluent is used by the District for water  
10 reuse supply.

11 (f) The powers, rights, privileges, and functions conferred  
12 upon the District shall be subject to the continuing rights of  
13 supervision by the State, [~~which shall be exercised by the Texas~~  
14 ~~Department of Water Resources, and the District shall obtain~~  
15 ~~approval of its projects and they shall be supervised]~~ as provided  
16 by the [Sections 54.516 and 54.517,] Water Code, as amended.

17 SECTION 4. Section 5, Chapter 712, Acts of the 59th  
18 Legislature, Regular Session, 1965, is amended to read as follows:

19 Sec. 5. (a) The management and control of the District is  
20 hereby vested in a Board of 10 directors.

21 (b) Each director must be a resident of this state.

22 (c) Vacancies on the Board of Directors, whether by death,  
23 resignation or termination of the term of office, shall be filled by  
24 appointment by the commissioners court that appointed the director  
25 for the unexpired term of the director.

26 (d) A director may be removed by the commissioners court  
27 that appointed the director for inefficiency, neglect of duty, or

1 misconduct of office. The commissioners court must provide a  
2 director removed under this section written notice not later than  
3 the 30th day after the date the decision to remove is made and an  
4 opportunity to be heard in person or by counsel in a public hearing.

5 (e) All terms of office shall be for a period of two (2)  
6 years. Terms shall be staggered ending on August 31 of the  
7 appropriate year.

8 (f) Six directors constitute a quorum. Except as otherwise  
9 provided, a majority of those directors present and qualified to  
10 vote is sufficient for final action on a matter before the Board.

11 SECTION 5. Chapter 712, Acts of the 59th Legislature,  
12 Regular Session, 1965, is amended by adding Sections 5C, 5D, 5E, 5F,  
13 and 5G to read as follows:

14 Sec. 5C. (a) Chapter 171, Local Government Code, does not  
15 apply to a director appointed to represent agricultural or  
16 industrial interests.

17 (b) A director who has a financial interest in a contract  
18 considered by the District for the purchase of property or the  
19 construction of a facility must disclose the interest to the other  
20 directors and may not vote on the contract.

21 Sec. 5D. (a) The Board may hold an open or closed meeting by  
22 telephone conference call if at least five directors are present at  
23 the location where the meeting of the Board is held. A meeting held  
24 by telephone conference call is subject to the same notice  
25 requirements as other Board meetings and must be recorded. Each  
26 person who speaks in a meeting held by telephone conference call  
27 must be clearly identified. A director participating in a meeting

1 held by telephone conference call is considered absent from any  
2 part of the meeting during which audio communication is lost.

3 (b) The authority to hold a meeting held by telephone  
4 conference call described by this section is in addition to  
5 authority described by Chapter 551, Government Code.

6 Sec. 5E. If the Board employs a general manager, the general  
7 manager is the chief executive officer of the District.

8 Sec. 5F. The District is not required to provide notice for  
9 the sale or disposal of District personal property if the personal  
10 property has a value of less than \$25,000.

11 Sec. 5G. (a) The District may enter into a contract related  
12 to a water project located outside the District. The District may  
13 enter into a local agreement with a political subdivision for a  
14 purpose related to a water project.

15 (b) A contract under this section may use money appropriated  
16 by a political subdivision that is a party to the contract to pay  
17 for pre-development costs, engineering, surveys, and the  
18 collection and compilation of data relating to conditions  
19 influencing determinations about the character and extent of  
20 proposed improvements, works, and facilities for the  
21 accomplishment of District purposes.

22 (c) The District may contract or agree with an entity  
23 appropriating money under this section to receive a loan or money  
24 from other sources in return for services described by Subsection  
25 (a) of this section. The contract or agreement may provide for the  
26 repayment by the District of money advanced as a loan from project  
27 revenues, bond proceeds, or other available money.

1        (d) The District and a state agency or political subdivision  
2 may enter into a contract to jointly pay all or part of the cost of a  
3 water project or the operation of a water project in the same way  
4 that a political subdivision may contract with a state agency or  
5 political subdivision under Chapter 472, Transportation Code, to  
6 jointly pay all or part of the cost associated with a state or local  
7 highway, turnpike, road, or street project.

8        SECTION 6. Sections 7 and 8, Chapter 712, Acts of the 59th  
9 Legislature, Regular Session, 1965, are amended to read as follows:

10        Sec. 7. The District shall have power and is hereby  
11 authorized to issue, from time to time, bonds as herein authorized  
12 for any of its corporate purposes. Such bonds may either be (1)  
13 sold for cash, at public or private sale, at such price or prices as  
14 the Board shall determine, provided that the net effective interest  
15 rate, calculated in accordance with Chapter 1204, Government Code  
16 ~~[3, Acts of the 61st Legislature, Regular Session, 1969, as amended~~  
17 ~~(Article 717k-2, Vernon's Texas Civil Statutes), as now or~~  
18 ~~hereafter amended shall not exceed ten (10) percent], or (2) issued~~  
19 on such terms as the Board of Directors shall determine in exchange  
20 for property of any kind, real, personal or mixed or any interest  
21 therein which the Board shall deem necessary for any such corporate  
22 purposes, or (3) issued in exchange for like principal amounts of  
23 other obligations of the District, matured or unmatured. The  
24 proceeds of sale of such bonds shall be deposited in such bank or  
25 banks or trust company or trust companies, and shall be paid out  
26 pursuant to such terms and conditions, as may be agreed upon between  
27 the District and the purchasers of such bonds. All such bonds shall

1 be authorized by resolution or resolutions of the Board of  
2 Directors, and shall bear such date or dates, mature at such time or  
3 times, bear interest payable annually, semiannually, or otherwise,  
4 be in such denominations, be in such form, either coupon or  
5 registered, carry such registration privileges as to principal only  
6 or as to both principal and interest, and as to exchange of coupon  
7 bonds for registered bonds or vice versa, and exchange of bonds of  
8 one denomination for bonds of other denominations, be executed in  
9 such manner and be payable at such place or places within or without  
10 the State of Texas, as such resolution or resolutions may provide.  
11 Any resolution or resolutions authorizing any bonds may contain  
12 provisions, which shall be part of the contract between the  
13 District and the holders thereof from time to time:

14 (a) reserving the right to redeem such bonds or requiring  
15 the redemption of such bonds, at such time or times, in such amounts  
16 and at such prices, [~~not exceeding 105 percent of the principal~~  
17 ~~amount thereof, plus accrued interest,~~] as may be provided;

18 (b) providing for the setting aside of sinking funds or  
19 reserve funds and the regulation and disposition thereof;

20 (c) pledging to secure the payment of the principal of and  
21 interest on such bonds and of the sinking fund or reserve fund  
22 payments agreed to be made in respect of such bonds all or any part  
23 of the gross or net revenues thereafter received by the District in  
24 respect of the property, real, personal, or mixed, to be acquired  
25 and/or constructed with such bonds or the proceeds thereof, or all  
26 or any part of the gross or net revenues thereafter received by the  
27 District from whatever source derived;

1 (d) prescribing the purposes to which such bonds or any  
2 bonds thereafter to be issued, or the proceeds thereof, may be  
3 applied;

4 (e) agreeing to fix and collect rates and charges sufficient  
5 to produce revenues adequate to pay (1) all expenses necessary to  
6 the operation and maintenance and replacements and additions to the  
7 properties and facilities of the District; (2) the principal of,  
8 and the interest and premium, if any, on bonds issued under this Act  
9 as and when the same became due and payable; (3) all sinking fund  
10 and/or reserve fund payments agreed to be made in respect of any  
11 such bonds out of such revenues as and when the same became due and  
12 payable, and to fulfill the terms of any agreements made with the  
13 holders of such bonds and/or with any person on their behalf and to  
14 discharge all other lawful obligations of the District as and when  
15 the same become due;

16 (f) prescribing limitations upon the issuance of additional  
17 bonds and subordinate lien bonds and upon the agreements which may  
18 be made with the purchasers and successive holders thereof;

19 (g) with regard to the construction, extension,  
20 improvement, reconstruction, operation, maintenance, and repair of  
21 the properties of the District and carrying of insurance upon all or  
22 any part of said properties covering loss or damage or loss of use  
23 and occupancy resulting from specified risks;

24 (h) fixing the procedure, if any, by which, if the District  
25 shall so desire, the terms of any contract with the holders of such  
26 bonds may be amended or abrogated, the amount of bonds the holders  
27 of which must consent thereto, and the manner in which such consent

1 may be given;

2 (i) for the execution and delivery by the District to a bank  
3 or trust company authorized by law to accept trusts, or to the  
4 United States of America or any officer or agency thereof, of  
5 indentures and agreements for the benefit of the holders of such  
6 bonds and such other provisions as may be customary in such  
7 indentures or agreements; and

8 (j) such other provisions, [~~not inconsistent with the~~  
9 ~~provisions of this Act,~~] as the Board may approve.

10 (k) The Board may declare an emergency in the matter of  
11 funds not being available to pay principal of and interest on any  
12 bonds of the District or to meet any other needs of the District and  
13 may issue bond anticipation notes or enter into a loan to pay the  
14 costs to meet the emergency need. A loan under this subsection may  
15 be secured by a pledge of and made payable from district revenues or  
16 the proceeds of a future series of bonds. Bond anticipation notes  
17 may bear interest at any rate or rates not to exceed 10 percent and  
18 shall mature within one (1) year of their date. The bond  
19 anticipation notes so issued will be taken up with the proceeds of  
20 bonds, or the bonds may be issued and delivered in exchange for and  
21 in substitution of such notes.

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

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

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

14       (n) If any bonds recite that they are secured by a pledge of  
15 the proceeds of a contract, lease, sale or other agreement (herein  
16 called "contract"), a copy of such contract and the proceedings of  
17 the contracting parties will also be submitted to the Attorney  
18 General. If such bonds have been authorized and such contracts made  
19 in compliance with law, the Attorney General shall approve the  
20 bonds and contracts, and the bonds shall then be registered by the  
21 Comptroller of Public Accounts. When so approved, such bonds and  
22 the contracts shall be valid and binding and shall be incontestable  
23 for any cause from and after the time of such registration.

24       (o) The District is authorized to make and issue bonds  
25 (herein called "refunding bonds") for the purpose of refunding or  
26 refinancing any outstanding bonds or notes authorized and issued by  
27 the District pursuant to this Act or other law (herein called

1 "bonds") and the interest and premium, if any, thereon to maturity  
2 or on any earlier redemption date specified in the resolution  
3 authorizing the issuance of the refunding bonds. Such refunding  
4 bonds may be issued to refund more than one series of outstanding  
5 bonds, may combine the pledges of the outstanding bonds for the  
6 security of the refunding bonds, or may be secured by other or  
7 additional revenues. All provisions of this Act with reference to  
8 the issuance of bonds, the terms and provisions thereof, their  
9 approval by the Attorney General, and the remedies of the  
10 bondholders shall be applicable to refunding bonds. Refunding  
11 bonds shall be registered by the Comptroller upon surrender and  
12 cancellation of the bonds to be refunded, but in lieu thereof, the  
13 resolution authorizing the issuance of refunding bonds may provide  
14 that they shall be sold and the proceeds thereof deposited at the  
15 places at which the original bonds are payable, in which case the  
16 refunding bonds may be issued in an amount sufficient to pay the  
17 interest and premium, if any, on the original bonds to their  
18 maturity date or specified earlier redemption date, and the  
19 Comptroller will register them without concurrent surrender and  
20 cancellation of the original bonds. The District may also refund  
21 any outstanding bonds in the manner provided by any applicable  
22 General Law.

23 (p) All bonds issued by the District pursuant to the  
24 provisions of this Act shall constitute investment securities  
25 within the meaning of the Uniform Commercial Code.

26 (q) This Act, without reference to other statutes of the  
27 State of Texas, shall constitute full authority for the

1 authorization and issuance of bonds hereunder, and no other Act or  
2 law with regard to the authorization or issuance of obligations or  
3 the deposit of the proceeds thereof, or in any impeding or  
4 restricting the carrying out of the acts herein authorized to be  
5 done shall be construed as applying to any proceedings taken  
6 hereunder or acts done pursuant hereto.

7       Sec. 8. (a) When any of such revenues are pledged to the  
8 payment of any bonds issued by said District or loans received by  
9 the District, it shall be the right and duty of the District's Board  
10 of Directors to cause to be fixed, maintained and enforced charges,  
11 fees or tolls for services rendered by properties and facilities,  
12 the revenues of which have been pledged, at rates and amounts at  
13 least sufficient to comply with and carry out the covenants and  
14 provisions contained in the order or orders authorizing the  
15 issuance of said bonds.

16       (b) Regardless of whether the revenues are pledged to the  
17 payment of bonds, the ~~[The]~~ District shall have the right to impose  
18 penalties for failure to pay, when due, such charges, fees or tolls.

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

26       (b) The governor, one of the required recipients, has  
27 submitted the notice and Act to the Texas Commission on

1 Environmental Quality.

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

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

10 SECTION 8. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2019.