

By: Thompson of Brazoria

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), (c), and (f), Chapter 712, Acts of
20 the 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 (c) In the event that the District in the exercise of the
12 power of eminent domain or power of relocation, or any other power
13 granted hereunder, makes necessary the relocation, raising,
14 rerouting or changing the grade of, or altering the construction
15 of, any cemetery, highway, railroad, electric transmission line,
16 telephone or telegraph properties and facilities, or pipeline, all
17 such necessary relocation, raising, rerouting, changing of grade or
18 alteration of construction shall be accomplished at the sole
19 expense of the District. The term "sole expense" shall mean the
20 actual cost of such relocation, raising, rerouting, or change in
21 grade or alteration of construction in providing comparable
22 replacement without enhancement of such facilities after deducting
23 therefrom the net salvage value derived from the old facility.

24 (f) The powers, rights, privileges, and functions conferred
25 upon the District shall be subject to the continuing rights of
26 supervision by the State, [~~which shall be exercised by the Texas~~
27 ~~Department of Water Resources, and the District shall obtain~~

1 ~~approval of its projects and they shall be supervised]~~ as provided
2 by the ~~[Sections 54.516 and 54.517,]~~ Water Code, as amended.

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

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

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

8 (c) Vacancies on the Board of Directors, whether by death,
9 resignation or termination of the term of office, shall be filled by
10 appointment by the commissioners court that appointed the director
11 for the unexpired term of the director.

12 (d) A director may be removed by the commissioners court
13 that appointed the director for inefficiency, neglect of duty, or
14 misconduct of office. The commissioners court must provide a
15 director removed under this section written notice not later than
16 the 30th day after the date the decision to remove is made and an
17 opportunity to be heard in person or by counsel in a public hearing.

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

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

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

27 Sec. 5C. (a) Chapter 171, Local Government Code, does not

1 apply to a director appointed to represent agricultural or
2 industrial interests.

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

7 Sec. 5D. (a) The Board may hold an open or closed meeting by
8 telephone conference call if at least five directors are present at
9 the location where the meeting of the Board is held. A meeting held
10 by telephone conference call is subject to the same notice
11 requirements as other Board meetings and must be recorded. Each
12 person who speaks in a meeting held by telephone conference call
13 must be clearly identified. A director participating in a meeting
14 held by telephone conference call is considered absent from any
15 part of the meeting during which audio communication is lost.

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

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

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

24 Sec. 5G. (a) The District may enter into a contract related
25 to a water project located outside the District. The District may
26 enter into a local agreement with a political subdivision for a
27 purpose related to a water project.

1 (b) A contract under this section may use money appropriated
2 by a political subdivision that is a party to the contract to pay
3 for pre-development costs, engineering, surveys, and the
4 collection and compilation of data relating to conditions
5 influencing determinations about the character and extent of
6 proposed improvements, works, and facilities for the
7 accomplishment of District purposes.

8 (c) The District may contract or agree with an entity
9 appropriating money under this section to receive a loan or money
10 from other sources in return for services described by Subsection
11 (a) of this section. The contract or agreement may provide for the
12 repayment by the District of money advanced as a loan from project
13 revenues, bond proceeds, or other available money.

14 (d) The District and a state agency or political subdivision
15 may enter into a contract to jointly pay all or part of the cost of a
16 water project or the operation of a water project in the same way
17 that a political subdivision may contract with a state agency or
18 political subdivision under Chapter 472, Transportation Code, to
19 jointly pay all or part of the cost associated with a state or local
20 highway, turnpike, road, or street project.

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

23 Sec. 7. The District shall have power and is hereby
24 authorized to issue, from time to time, bonds as herein authorized
25 for any of its corporate purposes. Such bonds may either be (1)
26 sold for cash, at public or private sale, at such price or prices as
27 the Board shall determine, provided that the net effective interest

1 rate, calculated in accordance with Chapter 1204, Government Code
2 [~~3, Acts of the 61st Legislature, Regular Session, 1969, as amended~~
3 ~~(Article 717k-2, Vernon's Texas Civil Statutes), as now or~~
4 ~~hereafter amended shall not exceed ten (10) percent~~], or (2) issued
5 on such terms as the Board of Directors shall determine in exchange
6 for property of any kind, real, personal or mixed or any interest
7 therein which the Board shall deem necessary for any such corporate
8 purposes, or (3) issued in exchange for like principal amounts of
9 other obligations of the District, matured or unmatured. The
10 proceeds of sale of such bonds shall be deposited in such bank or
11 banks or trust company or trust companies, and shall be paid out
12 pursuant to such terms and conditions, as may be agreed upon between
13 the District and the purchasers of such bonds. All such bonds shall
14 be authorized by resolution or resolutions of the Board of
15 Directors, and shall bear such date or dates, mature at such time or
16 times, bear interest payable annually, semiannually, or otherwise,
17 be in such denominations, be in such form, either coupon or
18 registered, carry such registration privileges as to principal only
19 or as to both principal and interest, and as to exchange of coupon
20 bonds for registered bonds or vice versa, and exchange of bonds of
21 one denomination for bonds of other denominations, be executed in
22 such manner and be payable at such place or places within or without
23 the State of Texas, as such resolution or resolutions may provide.
24 Any resolution or resolutions authorizing any bonds may contain
25 provisions, which shall be part of the contract between the
26 District and the holders thereof from time to time:

27 (a) reserving the right to redeem such bonds or requiring

1 the redemption of such bonds, at such time or times, in such amounts
2 and at such prices, [~~not exceeding 105 percent of the principal~~
3 ~~amount thereof, plus accrued interest,~~] as may be provided;

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

6 (c) pledging to secure the payment of the principal of and
7 interest on such bonds and of the sinking fund or reserve fund
8 payments agreed to be made in respect of such bonds all or any part
9 of the gross or net revenues thereafter received by the District in
10 respect of the property, real, personal, or mixed, to be acquired
11 and/or constructed with such bonds or the proceeds thereof, or all
12 or any part of the gross or net revenues thereafter received by the
13 District from whatever source derived;

14 (d) prescribing the purposes to which such bonds or any
15 bonds thereafter to be issued, or the proceeds thereof, may be
16 applied;

17 (e) agreeing to fix and collect rates and charges sufficient
18 to produce revenues adequate to pay (1) all expenses necessary to
19 the operation and maintenance and replacements and additions to the
20 properties and facilities of the District; (2) the principal of,
21 and the interest and premium, if any, on bonds issued under this Act
22 as and when the same became due and payable; (3) all sinking fund
23 and/or reserve fund payments agreed to be made in respect of any
24 such bonds out of such revenues as and when the same became due and
25 payable, and to fulfill the terms of any agreements made with the
26 holders of such bonds and/or with any person on their behalf and to
27 discharge all other lawful obligations of the District as and when

1 the same become due;

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

5 (g) with regard to the construction, extension,
6 improvement, reconstruction, operation, maintenance, and repair of
7 the properties of the District and carrying of insurance upon all or
8 any part of said properties covering loss or damage or loss of use
9 and occupancy resulting from specified risks;

10 (h) fixing the procedure, if any, by which, if the District
11 shall so desire, the terms of any contract with the holders of such
12 bonds may be amended or abrogated, the amount of bonds the holders
13 of which must consent thereto, and the manner in which such consent
14 may be given;

15 (i) for the execution and delivery by the District to a bank
16 or trust company authorized by law to accept trusts, or to the
17 United States of America or any officer or agency thereof, of
18 indentures and agreements for the benefit of the holders of such
19 bonds and such other provisions as may be customary in such
20 indentures or agreements; and

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

23 (k) The Board may declare an emergency in the matter of
24 funds not being available to pay principal of and interest on any
25 bonds of the District or to meet any other needs of the District and
26 may issue bond anticipation notes or enter into a loan to pay the
27 costs to meet the emergency need. A loan under this section may be

1 secured by a pledge of and made payable from district revenues or
2 the proceeds of a future series of bonds. Bond anticipation notes
3 may bear interest at any rate or rates not to exceed 10 percent and
4 shall mature within one (1) year of their date. The bond
5 anticipation notes so issued will be taken up with the proceeds of
6 bonds, or the bonds may be issued and delivered in exchange for and
7 in substitution of such notes.

8 (1) Before any bonds shall be sold or exchanged or
9 substituted by the District, a certified copy of the proceedings of
10 the issuance thereof, including the form of such bonds, together
11 with any other information which the Attorney General of the State
12 of Texas may require, shall be submitted to the Attorney General,
13 and if he shall find that such bonds have been issued in accordance
14 with law, and if he shall approve such bonds, he shall execute a
15 certificate to that effect which shall be filed in the office of the
16 Comptroller of the State of Texas and be recorded in a record kept
17 for that purpose. No bonds shall be issued until the same shall
18 have been registered by the Comptroller, who shall so register the
19 same if the Attorney General shall have filed with the Comptroller
20 his certificate approving the bonds and the proceedings for the
21 issuance thereof as hereinabove provided.

22 (m) All bonds approved by the Attorney General as aforesaid,
23 and registered by the Comptroller as aforesaid, and issued in
24 accordance with the proceedings so approved shall be valid and
25 binding obligations of the District and shall be incontestable for
26 any cause from and after the time of such registration.

27 (n) If any bonds recite that they are secured by a pledge of

1 the proceeds of a contract, lease, sale or other agreement (herein
2 called "contract"), a copy of such contract and the proceedings of
3 the contracting parties will also be submitted to the Attorney
4 General. If such bonds have been authorized and such contracts made
5 in compliance with law, the Attorney General shall approve the
6 bonds and contracts, and the bonds shall then be registered by the
7 Comptroller of Public Accounts. When so approved, such bonds and
8 the contracts shall be valid and binding and shall be incontestable
9 for any cause from and after the time of such registration.

10 (o) The District is authorized to make and issue bonds
11 (herein called "refunding bonds") for the purpose of refunding or
12 refinancing any outstanding bonds or notes authorized and issued by
13 the District pursuant to this Act or other law (herein called
14 "bonds") and the interest and premium, if any, thereon to maturity
15 or on any earlier redemption date specified in the resolution
16 authorizing the issuance of the refunding bonds. Such refunding
17 bonds may be issued to refund more than one series of outstanding
18 bonds, may combine the pledges of the outstanding bonds for the
19 security of the refunding bonds, or may be secured by other or
20 additional revenues. All provisions of this Act with reference to
21 the issuance of bonds, the terms and provisions thereof, their
22 approval by the Attorney General, and the remedies of the
23 bondholders shall be applicable to refunding bonds. Refunding
24 bonds shall be registered by the Comptroller upon surrender and
25 cancellation of the bonds to be refunded, but in lieu thereof, the
26 resolution authorizing the issuance of refunding bonds may provide
27 that they shall be sold and the proceeds thereof deposited at the

1 places at which the original bonds are payable, in which case the
2 refunding bonds may be issued in an amount sufficient to pay the
3 interest and premium, if any, on the original bonds to their
4 maturity date or specified earlier redemption date, and the
5 Comptroller will register them without concurrent surrender and
6 cancellation of the original bonds. The District may also refund
7 any outstanding bonds in the manner provided by any applicable
8 General Law.

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

12 (q) This Act, without reference to other statutes of the
13 State of Texas, shall constitute full authority for the
14 authorization and issuance of bonds hereunder, and no other Act or
15 law with regard to the authorization or issuance of obligations or
16 the deposit of the proceeds thereof, or in any impeding or
17 restricting the carrying out of the acts herein authorized to be
18 done shall be construed as applying to any proceedings taken
19 hereunder or acts done pursuant hereto.

20 Sec. 8. (a) When any of such revenues are pledged to the
21 payment of any bonds issued by said District or loans received by
22 the District, it shall be the right and duty of the District's Board
23 of Directors to cause to be fixed, maintained and enforced charges,
24 fees or tolls for services rendered by properties and facilities,
25 the revenues of which have been pledged, at rates and amounts at
26 least sufficient to comply with and carry out the covenants and
27 provisions contained in the order or orders authorizing the

1 issuance of said bonds.

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

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

12 (b) The governor, one of the required recipients, has
13 submitted the notice and Act to the Texas Commission on
14 Environmental Quality.

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

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

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