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SOAH DOCKET NO. 582-05-1005  
TCEQ DOCKET NO. 2004-1384-UCR

PETITION OF BEXAR METROPOLITAN §  
WATER DISTRICT TO COMPEL RAW §  
WATER COMMITMENT FROM §  
GUADALUPE-BLANCO RIVER §  
AUTHORITY §

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

APPENDIX TO  
GUADALUPE-BLANCO RIVER AUTHORITY'S  
MOTION TO DISMISS

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## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Appendix to Guadalupe-Blanco River Authority's Motion to Dismiss was served on the following person(s) via hand delivery and/or certified mail on March 10, 2005.

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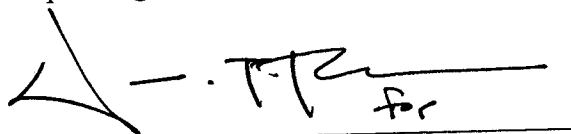
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Molly Cagle



**OFFICE OF  
THE ATTORNEY GENERAL  
AUSTIN, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

July 28, 1947

Hon. E. V. Spence, Chairman  
Board of Water Engineers  
302 West 15th Street  
Austin, Texas

Opinion No. V-319

Re: Sale of stored water  
by Lower Colorado Ri-  
ver Authority for irri-  
gation and manufacturing  
use outside the Authori-  
ty's statutory bounda-  
ries

Dear Sir:

The question and facts upon which our opinion  
is requested are stated in your letter of May 23, 1947,  
as follows:

"Your opinion is requested with  
respect to the application of J. T.  
Suggs, Box 3, Lake Jackson, Brazoria  
County, Texas, now pending before the  
Board, to appropriate and divert  
40,000 acre-feet per annum of the unap-  
propriated waters of the State of  
Texas, the same to be diverted from  
the Colorado River and the San Bernard  
River for the purpose of utilizing  
35,000 acre-feet for irrigation and  
5,000 acre-feet for manufacturing. The  
annual diversion from the sources of  
supply to be on the basis of 10,000  
acre-feet from the Colorado River of  
which 2,000 is to be for manufacturing,  
and 30,000 acre-feet from the San Bernard  
River of which 3,000 should be for manu-  
facturing.

". . .

"The question arises - has the Lower  
Colorado River Authority the right to sell  
water to Mr. J. T. Suggs for irrigation and

manufacturing purposes, and to use, distribute and sell the same outside the boundaries of the District, and in this case the lands being in the Brazos Valley."

We have examined the application of J. T. Suggs which states that any permit granted by the Board to divert water from the Colorado River will be contingent upon the ability of the applicant to purchase stored water from the Lower Colorado River Authority. The only waters, therefore, subject to this opinion, are those of the Colorado stored by LCRA. The question restated is whether or not LCRA may sell legally stored water to a purchaser who will deliver it for irrigation and manufacturing use beyond the boundaries of the District. In addition, and in order to fully answer your question, it will be necessary to decide whether a purchaser who has bought stored water from LCRA may, by following the procedure outlined in Article 7590, V. C. S., remove the water so purchased beyond the watershed.

The various conservation and reclamation districts, including LCRA, have been created by special acts under Article XVI, Sec. 59 of the Constitution, and have only those powers expressly granted or reasonably implied from the acts upon which their creation depends. The solution to your problem must be determined by ascertaining legislative intent as expressed in these acts.

LCRA was created by Acts 1934, 43rd Legislature, 4th C. S., Ch. 7, as amended. Its boundaries are coincident with the boundaries of Blanco, Burnet, Llano, Travis, Bastrop, Fayette, Colorado, Wharton, San Saba, and Matagorda Counties. The powers given LCRA are set out in Section 2 of the Act creating it and in so far as these powers touch on the subject under investigation it appears that LCRA is authorized to control, store, and preserve within the boundaries of the district the waters of the Colorado and its tributaries for any useful purpose, and use, distribute and sell the same within the boundaries of the district; develop and generate water power and electric energy within the boundaries of the district and distribute and sell water power and electric energy within or without said boundaries; aid in foresting within the watershed area of the Colorado and aid in prevention



of soil erosion and floods within said watershed area; acquire by purchase or otherwise any property, real, personal or mixed, within or without the boundaries of the district necessary or convenient to the exercise of the powers conferred upon it. Regardless of permits held, the district is not permitted to use for irrigation purposes any water unless expressly authorized by subsequent permit granted by the Board of Water Engineers; provided, however, that nothing shall prevent the district from selling for irrigation purposes within the boundaries of the district any water impounded by it under authority of law. Its use of water for the purpose of generating hydro-electric power is subordinated and made inferior to the rights of any citizen of Texas, or bodies politic, to build dams and impound flood waters within the watershed of the Colorado and its tributaries for domestic purposes and for the purposes of irrigation and any permit held by it is subject to the limitations indicated.

We find in the Act creating LCRA an express directive to use, distribute and sell within the boundaries of the district the waters which are controlled, stored and preserved by it. It is also provided that regardless of the permits which it holds the district is required to obtain a subsequent permit from your Board in order to use any but impounded waters for irrigation, it being expressly provided that nothing shall prevent the sale of water impounded under authority of law for irrigation within the boundaries of said district. LCRA may distribute and sell water power and electric energy within or without its boundaries, and is to aid in foresting and in the prevention of soil erosion and floods within the watershed area. It may acquire within or without its boundaries property necessary to the exercise of its powers. The Act indicates to us a carefully considered attempt by the Legislature to localize certain functions and to generalize others.

Turning now to the other Conservation and Reclamation Acts, all of which are compiled under Special Acts beginning at page 536, Vol. 21, V. C. S., we briefly review the provisions of these Acts in so far as they touch on the subject under investigation.

Brazos River Conservation and Reclamation District. Its boundaries are coincident with the watershed of the Brazos. It is authorized to control and employ the flood, storm and unappropriated flow waters of said

district in order to provide for the preservation of the equitable rights of the people of the watershed area; the conservation of water essential for domestic uses of the watershed; for the irrigation of lands in the watershed area; the equitable distribution of waters to the regional potential requirements for all uses, and to make available waters in the development of commercial and industrial enterprises in all sections of the watershed.

Central Colorado River Authority. It is composed of the County of Coleman. It is authorized to use, distribute and sell its waters within the boundaries of the district. Water power and electric energy may be sold within or without such boundaries. It is directed to aid in prevention of soil erosion and floods within the watershed area. It may acquire property necessary to the exercise of its powers, whether such property be within or without such district.

Guadalupe-Blanco River Authority. Its boundaries are coincident with the boundaries of Hays, Comal, Guadalupe, Caldwell, Gonzales, DeWitt, Victoria, Kendall, Refugio and Calhoun Counties. It is authorized to use, distribute and sell its waters within the boundaries of the district; water power and electric energy to be distributed and sold within or without such boundaries. It is to aid in foresting and in the prevention of soil erosion and floods within the watershed area. Property necessary to carry out its purposes may be acquired within or without the district.

Lower Neches Valley Authority. Its boundaries consist of Jefferson, Hardin, Tyler and portions of Liberty and Chambers Counties. It is accorded power of control and employment of the waters of the Neches in order to preserve the equitable rights of the people of the watershed area; for irrigation of land in said district and land without said district but within said watershed; for the equitable distribution of waters to the regional potential requirements for all uses, and to make available waters in the development of commercial and industrial enterprises in all sections of the watershed of the district.

Lower Concho River Water and Soil Conservation Authority. Its boundaries consist of Concho County. It is authorized to sell water power and electric ener-

gy within and without the district; to provide for the irrigation of lands in the district and for the equitable distribution of waters of the Concho and Colorado Rivers to the regional potential requirements for all uses, and to make available waters in the development of commercial and industrial enterprises in all sections of the watershed area of the district.

Nueces River Conservation and Reclamation District. Its boundaries describe by metes and bounds the watershed area. It has power of control and employment of the waters of the Nueces for domestic uses of the people of the watershed; for irrigation of land in the watershed; for the equitable distribution of waters to the regional requirements for all uses, and in order to make available waters in the development of commercial and industrial enterprises within the watershed.

Panhandle Water Conservation Authority. Its boundaries consist of certain named counties along the Red, Canadian and Brazos Rivers. The District has the authority to distribute and sell water power and electric energy within or without its boundaries; to provide for the irrigation of lands in the watershed areas; provided, that such district may not use water for irrigation unless it obtains a permit from the Board of Water Engineers, it being expressly provided, however, that nothing is to prevent the district from selling for irrigation within its boundaries any water impounded by it under authority of law, and to make available waters in the development of commercial and industrial enterprises in the watershed area of the district.

Sabine-Neches Conservation District. Its boundaries originally consisted of certain named counties, but by amendment these boundaries were extended to include the watershed areas of the Sabine and Neches Rivers. It has power of control and employment of the waters of these rivers for the preservation of the equitable rights of the people of the watershed; for irrigation of all lands within said watershed; development of commercial and industrial enterprises therein, and to conserve such waters for the domestic uses of the people of the district.

Sulphur River Conservation and Reclamation District. Its boundaries consist of the watershed area of the Sulphur River. It may control and employ the

flood, storm and unappropriated flow waters to preserve the equitable rights of the people of the watershed; to conserve water for essential domestic uses within the watershed; for the irrigation of lands within the watershed; for the equitable distribution of its waters to the regional potential requirements for all uses, and to make available such water for commercial and industrial enterprises in the watershed.

Upper Red River Flood Control and Irrigation District. It is composed of Briscoe, Hall and Childress Counties. It has power to control, store and preserve within the boundaries of the district the waters of Prairie Dog Fork and Red River for the reclamation and irrigation of the lands of the district and to use, distribute, and sell the same within such boundaries.

Upper-Guadalupe River Authority. It is composed of the County of Kerr. It is authorized to use, distribute and sell its waters within the boundaries of the district for any useful purpose, and to acquire such property as may be necessary to carry out its purposes within or without the district.

We find in these acts a more or less uniform insistence by the Legislature to confine within the district's boundaries the sale generally by it of stored waters and specifically sale by it of stored waters for manufacturing and irrigation use; permission to sell and distribute electric energy and water power within or without such boundaries; a conservation policy regarding foresting, flood control and soil erosion covering the watershed area; the power to acquire property necessary to carry out the powers of the district within or without the boundaries of such district, and the delegation generally of a duty to preserve the waters for the watershed area in accordance with regional potential requirements.

In the following instances we have found exceptions to the general policy discussed above:

Guadalupe River Authority. Its boundaries consist of certain named surveys in Comal County. Its right to

control, store, sell and distribute water is acquired by appropriation in the usual manner by permit from your Board and the exercise of all privileges obtained under such permits is subject to the provisions of Chapter 1, Title 128, R. C. S., 1925, as amended. Since water is permitted to be moved beyond the watershed by Article 7590, R. C. S., 1925, which is a part of Chapter 1, Title 128, it would appear that the district may sell to a purchaser who in turn might apply to your Board under said Article for a permit to remove the water so purchased beyond the watershed and beyond the district's boundaries.

Gulf Water Supply District. Its boundaries consist of Wilson, Karnes, Bee, San Patricio and Nueces Counties. It is specifically authorized to sell water to towns, cities and other political subdivisions in the State of Texas, to private corporations and to individuals, within or without the district.

San Jacinto Conservation and Reclamation District. It is bounded by the watershed of the San Jacinto except for the County of Harris. As originally enacted, the Act creating this district contains the usual provisions indicated above. However, by amendment, Acts 1941, page 769, the district was authorized to enter into any and all necessary and proper contracts with other agencies, districts and bodies politic and corporate and others for the storage, conservation, utilization, transportation and sale of impounded waters and electric power to cities, towns, industrial sites, persons, firms and corporations within or without the boundaries of the district.

Upper-Colorado River Authority. This district is composed of Coke and Tom Green Counties. It is authorized "to sell and distribute water without the boundaries of the district to any municipality for domestic, municipal and irrigation purposes, and to any person, firm, or corporation for municipal purposes or irrigation, together with the right to construct fumes, irrigation ditches, pipelines and storage reservoirs without the district for such purposes."

The fact that the Legislature has seen fit in certain cases to confine sales for manufacturing and irrigation use within fixed boundaries but has deviated from this policy in other cases, together with an overall policy of localizing certain functions while

generalizing others, leads us to the conclusion that only where sales beyond the district are expressly authorized were they intended to be permitted. It is our opinion that under its present act LCRA has no authority to distribute or sell its stored water for use beyond its boundaries.

In digesting the various conservation and reclamation Acts, we covered and considered only certain of the expressly granted powers and functions accorded such districts. In most cases, these express powers are preceded by a broad grant of authority to exercise all powers and functions conferred upon such districts by general law and by the conservation amendment to the Constitution and that the grant of express power is not intended to limit the general powers so conferred. Sections 1 and 2 of the LCRA Act (supra) are the sections which confer upon it these general powers. In addition, it is usually provided that the Act shall be liberally construed. See Sec. 18, LCRA Act (supra). We have considered these sections with reference to the situation under investigation but have been unable to find any purpose, function or power conferred upon LCRA under the general law or by the conservation amendment to the Constitution which would authorize it to sell stored waters beyond its boundaries in the face of an express directive that it use, distribute and sell such waters within such boundaries.

If the district is not authorized to sell or distribute waters beyond its boundaries, then it necessarily follows that the Legislature intended that these waters be used only within such boundaries. To permit a purchaser from such a district to distribute and use the stored waters purchased by him beyond district boundaries would nullify whatever purpose the Legislature had in mind in placing restrictions on sales by the district of such waters. We have covered at length the various conservation and reclamation district acts because we believe that these acts, with the exceptions indicated, show an overall purpose by the Legislature to preserve for the benefit of the inhabitants of these districts the waters stored by such districts and to permit a purchaser to remove such waters beyond district boundaries would circumvent this purpose. It is our opinion that a purchaser of stored waters under the present LCRA Act may not distribute and use such waters for irrigation and manufacturing purposes beyond LCRA boundaries.

In our opinion, Article 7589, V. C. S., declaring it to be unlawful to remove water beyond the watershed, Article 7590, V. C. S., providing a method by which water may be removed upon application to your Board, and Article 7591, V. C. S., making it a misdemeanor and providing penalties for removing waters without proper authority, have no application to the situation presented. Many of the districts discussed above consist of named counties so that the overall boundary may or may not be coincident with the watershed area. Whether the district boundaries lie within or without the watershed, or whether these boundaries are coincident with the watershed, all of the special acts in question having been enacted subsequent to Articles 7589, 7590 and 7591, have the effect of creating to the extent indicated in each act an exception to the general law stated in said Articles. See 25 R. C. L., p. 929, 59 C. J. p. 936, Sec. 546, 39 T.J. p. 150, Sec. 82, Harris County Drainage District No. 12 vs. City of Harris (Com. App.) 35 S. W. (2) 118; Hunt v. Atkinson, County Judge (Com. App.) 12 S. W. (2) 142, and Fortinberry v. State (Com. App.) 283 S. W. 146. The effect of this exception is two-fold; (1) making it lawful to use waters beyond the watershed where the boundaries of the district extend beyond such watershed, and (2) excepting from the operation of Article 7590 the waters involved in the special acts in question to the extent indicated in each of such acts.

We find no decision in Texas on this question. The only related cases we have found are not in point, since in each a statute existed permitting removal of waters beyond district boundaries. See San Jacinto River Conservation and Reclamation District v. Sellers (Tex. Sup. Ct. 1945) 184 S. W. (2) 920; Cameron County Water Improvement District No. 1 v. Daniels (T.C.A. 1925) 269 S. W. 1066.

Outside Texas the few cases found are not in harmony. The rule laid down in *Jenison v. Redfield* (Cal. Sup. Ct. 1906) 87 P. 26, involving an irrigation district, confines water strictly to district boundaries, holding that the waters of such districts are held in trust for their inhabitants and may not be used beyond district boundaries in the face of a statute restricting use within such boundaries. On the other hand, the following cases, while announcing the rule laid down in the *Jenison* case, place an exception upon this rule, holding that if the rights of the inhabitants of the district are not injured and if there

is a surplus of water, the district may furnish water for use beyond its boundaries. See Yaden v. Gem Irrigation District (Idaho Sup. Ct. 1923) 216 P. 250; Koch v. Colvin (Mont. Sup. Ct. 1940) 105 P. (2) 334, and MacLay v. Missoula Irrigation District (Mont. Sup. Ct. 1931) 3 P. (2) 286. In our opinion, the principles announced in these cases with regard to irrigation districts do not necessarily apply to conservation and reclamation districts such as LCRA due to the broader purpose for which the conservation and reclamation district has been created and the more extensive area over which this purpose extends. See Brazos River Conservation and Reclamation District v. McCraw (Tex. Sup. Ct. 1936) 91 S. W. (2) 670.

#### SUMMARY

Under its present Act (Ch. 7, Acts 43rd Legis. 4th C.S. 1934, as amended), waters stored by the Lower Colorado River Authority may not be distributed or sold by it for irrigation or manufacturing use beyond the Authority's boundaries. This restriction also relates to purchasers from the Authority.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

*H. D. Pruett, Jr.*  
H. D. Pruett, Jr.  
Assistant

APPROVED

*Price Daniel*  
PRICE DANIEL  
ATTORNEY GENERAL

HDP:bt



of said district. All such directors shall be appointed by the Governor with the advice and consent of the Senate and shall hold office for a term of six (6) years or until their successors have been appointed and qualified. Provided that the board of directors appointed under the provisions of Section 6 of Chapter 427, Acts of the First Called Session of the Forty-fourth Legislature, as amended by Section 2 of Chapter 20, Acts of the Second Called Session of the Forty-fifth Legislature, as amended by Section 1 of Chapter 390, Acts of the Regular Session of the Forty-eighth Legislature, shall continue to serve until the expiration of their respective terms. All vacancies occurring shall be filled by appointment of the Governor by and with the advice and consent of the Senate, so that each such appointee, except the first seven (7) members appointed hereunder, shall hold office for a term of six (6) years or until their successors have been appointed and qualified; it being the intention of the Legislature that as the present terms expire, seven (7) members of the board shall be appointed each biennium, that is to say, seven (7) shall be appointed after the effective date of this Act, whose terms shall expire on February 1, 1951, seven (7) shall be appointed on February 1, 1947, and seven (7) shall be appointed on February 1, 1949. Said directors shall take and subscribe to the official oath of office, and the same shall be filed with the Secretary of State. Eleven (11) members shall constitute a quorum to transact business. No more than two (2) of said directors shall be appointed who reside in the same county at the time of their appointment. The board shall hold its meetings at its official and principal place of business as determined and established by said board, unless it directs otherwise for specific occasions, and it shall meet then when called by order of the President, Vice President or a majority of its members; provided however, that the board shall fix, by order entered in the minutes of its proceedings, a specified time for its regular meetings."

Sec. 2. That Section 22 of Chapter 427, Acts of the First Called Session of the Forty-fourth Legislature, as amended by the Regular Session of the Forty-sixth Legislature, be and the same is hereby expressly repealed.<sup>19</sup>

Sec. 3. The importance of this Act to the economical, orderly and proper administration of the powers, rights, privileges, and functions conferred upon the Nueces River Conservation and Reclamation District by law, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and such Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed by the House, April 19, 1945: Yeas 119, Nays 0; passed by the Senate, May 16, 1945: Yeas 28, Nays 0.

Filed without the Governor's signature June 4, 1945.

Effective June 4, 1945.

<sup>19</sup> Vernon's Ann.Civ.St., foll. art. 8197f note.

## BEXAR METROPOLITAN WATER DISTRICT

CHAPTER 306 <sup>20</sup>

H. B. No. 834

An Act creating a conservation district wholly within Bexar County, Texas, to be known as Bexar Metropolitan Water District, pursuant to and for the purposes set forth in Article 16, Section 59 of the Constitution of Texas, to be a governmental agency, body politic and corporate, with power to control, conserve, protect, preserve, distribute, and utilize storm and flood waters of rivers and streams and underground waters situated in the District and to control and regulate the accumulation and disposal of sewage, wastes, refuse, and residuum to protect and preserve the purity of the surface and underground waters; to make rules and regulations pertaining to the operations and providing penalties for violations thereof; providing for annexation of territory; to borrow money, issue negotiable bonds payable from taxes or revenues, or both, and prescribing the manner of issuing such bonds and levying taxes; enacting other provisions relating thereto; providing a saving clause; and declaring an emergency.

WHEREAS, Article 16, Section 59 of the Constitution of Texas, declares the preservation and conservation of all natural resources of the State to be public rights and duties and directs the Legislature to pass all such laws as may be determined essential to the accomplishment of the purposes of said provision; and

WHEREAS, It is found and declared that the storm and flood waters and the underground waters of the area, hereinafter defined, are natural resources which should be controlled, preserved, and protected; and

WHEREAS, It is the declared public policy of this State to control, preserve, and protect the natural resources thereof for the benefit of its inhabitants and for other useful purposes; and

WHEREAS, There are situated within the territory affected four (4) incorporated cities, many square miles of densely populated but unincorporated territory, numerous army camps and army installations, a population of some three hundred thousand (300,000), served by no coordinated facilities, and parts of such territory being served by none of the facilities which can be made available through the passage of this Act; and

WHEREAS, It is hereby found and declared that the facilities now provided are inadequate and insufficient for the control, preservation, and disposal of storm and flood waters, sewage, wastes, and other refuse accumulated in said densely settled area, constituting a present and continuing threat to the safe and beneficial use of said waters by its inhabitants; and

WHEREAS, The conditions hereby found to exist are such that can best be abated by the establishment of an agency having general supervision and jurisdiction of said area with certain lawful powers to regulate, control, preserve, and protect the natural resources situated therein for the benefit and enjoyment of its inhabitants; and

WHEREAS, Under said Article 16, Section 59 of the Constitution, the Legislature is authorized and directed to pass all such laws as may be appropriate to the accomplishment of the objects and purposes of said provision; and

WHEREAS, The creation of the District, comprising the area defined is hereby determined to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution; and

WHEREAS, In determining the lands to be included in the District consideration has been given to: the natural boundaries of the watershed affected, the characteristics of the area, including the run-off, drainage, frequency and extent of storm and floodwaters; the constant exposure to pollution of surface and underground water by reason of the density of population; desirability of protecting all lands in the watershed and the necessity of protecting areas of great population density, with due regard for the necessity of financing the project; and

WHEREAS, Publication of notice of the intention to introduce and have passed this legislation has been made as required by the Constitution and law and evidence thereof has been duly exhibited to the Legislature.

*Be it enacted by the Legislature of the State of Texas:*

Section 1. In obedience to the provisions of Article 16, Section 59 of the Constitution of Texas, there is hereby created Bexar Metropolitan Water District, hereinafter in this Act sometimes called the "District."

Sec. 2. The District is hereby created as a governmental agency, a body politic and corporate, and a municipal corporation, vested with all the authority as such under the Constitution and laws of the State of Texas; and shall have and be empowered to exercise all the rights, privileges, functions, and powers of such governmental agency and body politic and corporate as authorized or implied by the provisions of Article 16, Section 59 of the Constitution and as have been or may be conferred by General Law upon conservation districts and as authorized or implied by the provisions of this Act, for the purpose of controlling, conserving, protecting, preserving, distributing, and utilizing the storm and flood waters of the rivers and streams situated in said District and the underground waters situated thereunder and for the purpose of regulating and controlling the disposal of sewage, wastes, and other refuse, and the collection and disposal thereof, to prevent the contamination and pollution of the public waters of the District. It shall have the power to formulate and execute any and all plans deemed essential to the accomplishment of the purposes for which it is created and shall be recognized to have such authority and power of control and regulation over the storm and flood waters of its rivers and streams and its underground waters as may be exercised by the State of Texas, subject to the provisions of the Constitution and Section 4 of this Act.

Sec. 3. In addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse, the District shall have the following general powers:

(a) Through every practical and legal means to control and regulate and to coordinate the control and regulation of the waters of the watershed of the San Antonio River and tributaries in the District and the storm and flood and underground waters of the District, including the power to cooperate with the United States Government or any agency thereof, or any municipality, public, quasi-public or private agency and to contract, negotiate, and enter into agreements with any one or more of such agencies in effecting such purposes;

(b) to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters;

(c) to conserve and distribute waters essential for domestic and other uses by the inhabitants of the District, including necessary water supply for cities and towns situated within the District;

(d) to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the District so as to protect effectively lives and property, and to utilize such waters for each and every purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared;

(e) to provide by purchase, construction, lease, gift, or in any other manner and to operate any and all facilities deemed by the District essential for preserving the purity of all the surface and underground waters of the District for the protection of the health of its inhabitants, and to formulate plans to make and enforce rules and regulations for the effective disposal of any and all sewage wastes, refuse, or residuum, however accumulated; which otherwise would contaminate, pollute, or render unsafe and insanitary the surface and underground waters of the District and which might threaten or impair the health of its inhabitants or which might adversely affect the health of the inhabitants downstream below the District;

(f) to acquire by purchase, construction, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein within or without the boundaries of the District deemed by its Board of Directors necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(g) to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or outside of the boundaries of the District, necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the District, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16 of the Constitution of the State of Texas; provided that the District shall not have the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the District;

(h) to cooperate, contract, and enter into agreements with towns, cities, districts, or political subdivisions located in or outside of the District and with Bexar County, in the construction, purchase, lease, maintenance, improvement, use, and operation of any and all facilities, works, and plants necessary or convenient to the accomplishment of the purposes for which the District was created;

(i) to make contracts with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, operating water distribution facilities for the benefit of a city or town within the District, under which the District may perform services for such parties or such parties may perform services for the District, or under which either may operate all or any part of the facilities of the other, having due regard for the duties and obligations of such parties in the instrument prescribing their or its duties;

(j) to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, or reconstructed and to use and operate any and all facilities of any kind necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred by this Act;

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

(l) to make by-laws for the management and regulation of its affairs conformably to the powers and purposes herein conferred and consistent with the Constitution of this State;

(m) to make rules and regulations and to prescribe penalties for the breach of any rule or regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county

in which the district's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five days next after the district may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two consecutive weeks, in one or more newspapers affording general circulation in the area in which the property of the district is situated; and, the substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the object sought to be accomplished or the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State;

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

(o) to appoint agents and employees; prescribe their duties and fix their compensation;

(p) to make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions herein conferred;

(q) to borrow money for its authorized purposes, to accept grants or loans or allotments from the United States Government or any of its agencies, or others, and in connection with any such grants, loans, or allotments to enter into such agreements as may be required to make them effective, and for the purpose of obtaining funds to issue its negotiable tax bonds and its negotiable revenue bonds in the manner and to the extent hereinafter provided;

(r) to operate and maintain with consent of the governing body of any city, town, or political subdivision located in the District any works, plants, or facilities deemed necessary or convenient to the accomplishment of the purposes for which the District is created.

Sec. 4. (a) The powers vested in and the duties devolved upon the District in this Act are subject to the continuing right of supervision of the flow waters of its rivers and streams and the impounding of flood waters, by the State Board of Water Engineers, and in instances where the plans of the District provide for the use of water from any rivers or streams or the impounding of any flood waters thereof, it shall submit such plans to the State Board of Water Engineers for approval as to efficacy and shall make application for a permit as required by law;

(b) Where the general plans of the District provide for the disposal of sewage and wastes, such plans shall be submitted to the State Board of Water Engineers for approval as to compliance with the provisions of Article 848a of the Penal Code of Texas.

Sec. 5. The District is hereby created and established, situated wholly in Bexar County, Texas, having the following metes and bounds: Beginning at the intersection of the North line of Chavanaux Road with East line of U. S. Highway 281,

Thence North along East side of U. S. Highway 281 to its intersection with the North line of Ashley Road,

Thence West along the North line of Ashley Road to the East line of Pleasanton Road,

Thence South along the Eastline of Pleasanton Road to an intersection with the North line of Baatz Boulevard,

Thence West along the North line of Baatz Boulevard near Six Mile Creek to an intersection with the East line of the Right-of-Way boundary of the SAU & G Railroad,

Thence North along the East Railroad Right-of-Way line across Six Mile Creek to an intersection with the corporate city limits of San Antonio at Military Drive,

Thence West along the corporate limit line to an intersection with the West line of Somerset Road,

Thence Southwesterly along the West line of Somerset Road to a point on the South limits of South San Antonio being between Arcadia Avenue and Virginia Avenue,

Thence West along the South boundary of South San Antonio to its intersection with Washington Street,

Thence South along the East line of Washington Street which is the boundary of South San Antonio to its intersection with the South line of Virginia Avenue,

Thence West along the South line of Virginia Avenue which is the boundary of South San Antonio to its intersection with the West line of Quintana Road,

Thence Northeast along the West line of Quintana Road to its intersection with the South line of Military Drive,

Thence In a Westerly direction along the South line of Military Drive to its intersection with the west line of the G H & S A Right-of-Way,

Thence In a Southwesterly direction along the West Right-of-Way line of the G H & S A which line is also a boundary of Kelly Field to the Southeast corner of County Block No. 5441,

Thence West along the common boundary of County Block Nos. 5441 and 5442 to its intersection with the East bank of Leon Creek,

Thence In a Northwesterly direction along the East bank of the Leon Creek to its intersection with the North side of Military Drive,

Thence In a Northwesterly direction across Leon Creek and along the North side of Military Drive to its intersection with the South line of U. S. Highway No. 90,

Thence In an Easterly and Northeasterly direction along the South line of U. S. Highway No. 90 to its intersection with the East line of Acme Road,

Thence North along the East line of Acme Road to the North line of Commerce Street,

Thence West along the North line of Commerce Street to the East line of Callaghan Road,

Thence North along the East line of Callaghan Road which is the approximate divide between Leon Creek and Alazan Creek, and continuing along the Southeast line of Callaghan Road across the headwaters of Alazan to its intersection with the Northeast line of Fredricksburg Road,

Thence Northwest along the Northeast line of Fredricksburg Road to its intersection with the South line of Kenney Road,

Thence Northeast along the Southeast line of Kenney Road to its intersection with the Southwest line of Keller Road,

Thence Southeast along the Southwest line of Keller Road across the headwaters of Olmos Creek to its intersection with the East line of San Pedro Avenue,

Thence North along the East line of San Pedro Avenue across the upper reaches of Olmos Creek to the Southeast line of Isom Road,

Thence In a Northwesterly direction along the Southeast line of Isom Road to meet the City of San Antonio corporate line on the Northwest side of the Airport,

Thence Northeast along the City of San Antonio corporate line bounding the airport to the Bitters Road,

Thence Southeast along the City of San Antonio corporate line and the Airport boundary to the Wetmore Road,

Thence Southwest along the City of San Antonio corporate line and the Wetmore Road to the North Loop Road,

Thence Southeast following the City of San Antonio corporate line along the North Loop Road to its intersection with the South line of the Military (Camp Bullis) Road,

Thence East along the South line of the Military Road and South along the West line of Military Road across the upper reaches of Salado Creek and across U. S. Highway 81 to its intersection with the South line of Rittiman Road,

Thence East along the South line of the Rittiman Road to its intersection with the West bank of Salado Creek,

Thence Downstream along the West Bank of the Salado Creek and the West channel of the Salado Creek to a point where it intersects the South line of John's subdivision,

Thence In a Southwesterly direction to a point on the West side of Goliad Road 2577' Northwest of the Goliad Road and Military Drive intersection.

Thence In a Southeasterly direction along the West line of Goliad Road across Military Drive and along the East boundary of Brooks Field to its intersection with the North line of San Juan Road,

Thence West along the North line of San Juan Road which is the boundary of Brooks Field to its intersection with Southton Road,

Thence North along the East line of Southton Road which is the boundary of Brooks Field to its intersection with the North line of the old Corpus Christi Road which is the boundary of Brooks Field,

Thence West and Northwest along the North and Northeast line of the old Corpus Christi Road the Right-of-Way of which is now included in the Brooks Field Reservation to its intersection with the South line of the South Loop Road,

Thence In a Westerly direction along the South line of the South Loop Road across U. S. Highway 181 of the Right-of-Way of the SA & AP Railroad to its intersection with the East bank of the San Antonio River,

Thence South along the meandering of the River to a point of intersection between the East bank of the River and the North line of Chavanaux Road, extended,

Thence West along the North line of Chavanaux Road, extended, and the North line of Chavanaux Road to the point of beginning,

except the area embraced within the corporate limits of the cities of Alamo Heights, Olmos Park and Terrell Hills as of the effective date of this Act.

Sec. 6. Areas of territory not included within the limits of any incorporated village, town or city, and not in the District, as hereinabove defined, may be annexed to the District in the following manner:

(1) A petition praying for annexation of such territory or by fifty

(50) such taxpayers if the number of such taxpayers is more than fifty, may be presented to the Board of Directors and filed with the secretary of said Board. Said petition shall describe by metes and bounds the territory sought to be annexed.

(2) The Board of Directors after considering said petition may adopt a resolution fixing a time and place at which such petition shall be heard, which time shall be not less than thirty (30) days from the date of such resolution and notice of such hearing shall be posted in three (3) public places within the District and in one (1) public place in the territory proposed to be annexed, which posting shall be made not less than fifteen (15) days before the date of said hearing; also, said notice shall be published in a newspaper of general circulation in the County one time at least fifteen (15) days prior to the date of said hearing. Said notice shall state the time and place of the hearing and describe by metes and bounds the territory proposed to be annexed.

(3) If upon the hearing of such petition it is found by the Board that the annexation of such territory or any part thereof, would be to the advantage and best interest of the District and that the work, plants and facilities of the District adequate to serve the additional territory without injury to or impairment of other lands and properties in the District, the Board by resolution duly adopted may receive such territory, or any part thereof, into the District.

(4) Any territory thus annexed shall bear its pro rata part of all indebtedness owed, contracted or authorized by the District, provided that the annexation of any such territory shall not become final until the pro rata part of the indebtedness owed, contracted or authorized by the District shall have been assumed by a majority vote at an election called and held for the purpose of submitting to the qualified property taxpaying voters residing in the territory annexed the proposition of the assumption of the indebtedness owing at that time and the authorization of the levy of the tax or taxes in payment thereof and at the same election there may be submitted the proposition of voting a maintenance tax. The manner of calling and holding such elections shall be in all things governed by the provisions of Chapter 25, General Laws of the Thirtieth Legislature, Regular Session, 1925, as amended relating to elections to vote bonds and levy taxes.

Sec. 6a. If any territory, whether or not incorporated as a city or town, which may be located within or without the perimeter of the District as defined by this Act and which is not a part of the District, should be annexed to and become a part of the City of San Antonio, the boundaries of the District shall automatically be extended so as to include territory thus annexed to the City of San Antonio provided however that such inclusion shall not become final until an election has been held and a majority of the qualified property taxpaying voters residing in the territory annexed have voted to assume the indebtedness and taxes then owed, contracted or authorized by the District. Such election shall be called, held and conducted in the same manner as the elections provided in paragraph (4) of Section 6.

Sec. 7. When this Act becomes effective the Commissioners Court of Bexar County, Texas, shall be authorized to appoint a Board of Directors for said District, consisting of five (5) persons, each of whom shall be a resident qualified elector owning taxable property within the area comprising said District. The members of said Board of Directors, when appointed, shall qualify by taking the oath of office and executing the bond hereinafter prescribed, and shall organize by electing one of their number as President, one as Vice-President, and one as Secretary and Treasurer. Each of such Directors shall take and subscribe to an oath



of office, similar to the oath required of County Commissioners and shall execute a bond in the sum of Five Thousand Dollars (\$5,000), payable to the District, conditioned substantially as bonds prescribed for County Commissioners. The sufficiency of such bonds shall be determined by the Commissioners Court, which bonds after approval by said Court shall be recorded in the official bond records of the County and shall thereafter be deposited with the depository selected and approved for the deposit of funds of the District. The terms of such Directors shall expire on the first Tuesday of April, 1946, and upon the election and qualification of their successors. The Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office until the first Tuesday of April, 1946, and upon the election and qualification of their successors.

Sec. 8. (a) The successors to such first Board of Directors shall be elected by a vote of the electors of the District at an election to be held on the first Tuesday in April, 1946, and on the first Tuesday in April of each even numbered year thereafter. The five (5) persons receiving the greatest number of votes shall be declared elected. Each Director shall hold office until his successor shall have been elected and shall have qualified;

(b) such elections shall be called, conducted and canvassed in the manner provided by Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, and any amendments thereto;

(c) the Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office for the unexpired term for which they were appointed;

(d) any three members of the Board shall constitute a quorum for the adoption of passage of any resolution or order or the transaction of any business of the District;

(e) directors thus elected shall have the same qualifications and shall otherwise qualify for said office as provided herein for the first Board of Directors and shall organize in like manner.

Sec. 9. The Board of Directors from time to time shall be authorized to make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created, as expressed in the provisions of this Act; and may employ engineers, attorneys and all other technical and non-technical employees or assistants and fix and provide the amount and manner of their compensation, and may provide for payment of expenditures deemed essential to the proper maintenance and administration of the District. The members of the Board of Directors shall receive a per diem of not more than Ten Dollars (\$10) per day, for the time actually expended on business of the District, together with traveling and other necessary expenses, provided that such per diem fee shall not be paid to a Director for more than one hundred (100) days in any one year.

Sec. 10. Taking into consideration the fact that the District should be incurring some obligations and making some expenditures before funds can be available to pay such obligations and expenditures, for the purpose of providing funds needed to procure necessary engineering surveys, the collection and compilation of data relating to general conditions influencing and determining the character and extent of the improvements, works and facilities essential to the accomplishment of any one or more of the several purposes of the District it is hereby provided that any political subdivision, city or town, situated within the District or any civic organization or Planning Board or Committee may expend funds or use its services for said engineering surveys and data. Any city or

town or political subdivision situated within the District may appropriate money from its general funds or such other funds as may be legally available for such purpose. The District, however, shall have full power to make binding commitments to any creditor in reference to any such expenditures payable out of any revenues currently anticipated, other than taxes, and it shall be competent for the District to contract with any such political subdivision, city or town to repay any money advanced as a loan to the District.

Sec. 11. The District may upon a favorable majority vote of the qualified property taxpaying electors voting at an election held for the purpose levy, assess and collect a tax to provide funds necessary to construct or acquire, maintain and operate improvements, works, plants and facilities deemed essential or beneficial to the District and also when so authorized at an election may levy, assess and collect a tax to provide funds adequate to defray the cost of the maintenance and operation and for administration of the District. Elections for the voting of such tax shall be ordered by the Board of Directors and shall be held and conducted in the manner provided by Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, as amended, and the laws relating to general elections not inconsistent with the provisions of said Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, as amended, and such taxes shall constitute a lien on the property against which such taxes are levied and assessed and limitations shall not bar the collection or enforcement thereof.

Sec. 12. The District funds shall be deposited in a depository duly designated and secured in the manner provided by general law for the depositing and securing of County funds.

Sec. 13. In furtherance of the purposes for which it is created and to provide funds for the construction or purchase, improvement, extension, repair, replacement or betterment of waterworks systems, storm sewers, sanitary sewer systems, sewage disposal plants or any other improvements, works, plants or facilities deemed necessary to accomplish any part of its plans and purposes the District shall have the power to borrow money and to evidence such loan by the authorization, issuance and sale of its negotiable bonds, provided that it shall not be authorized, to issue bonds or incur any form of continuing obligations or indebtedness for said purposes which would be payable from the proceeds of taxes levied against lands or properties within the District, unless the proposition for the incurring of such indebtedness shall have been submitted to the qualified property taxpaying voters of the District and approved by a majority of such electors voting thereon. The Board of Directors is authorized to call an election for the issuance of any such bonds and the levy of a tax in payment thereof and such proposition shall be submitted in the manner provided by Chapter 1, Title 22 of the Revised Civil Statutes of Texas, 1925, relating to County and City bond elections, to the qualified property taxpaying resident voters of the District who have duly rendered property for taxation. If at such election a majority of the legal votes cast are favorable to the issuance of the bonds they may be issued to mature serially or otherwise, as may be determined by the Board, not more than forty (40) years from their date, with or without option of prior redemption, and if an option of redemption prior to maturity is reserved it shall be plainly so stated in the resolution authorizing such bonds and in the face of each bond, together with the prices at which and the terms under which the bonds may be so redeemed; provided the price so fixed for prior redemption shall never exceed one hundred and five per cent (105%) of the principal amount of such bonds, plus the interest accrued to date of redemption, and such bonds shall

bear interest at not exceeding five per cent (5%) per annum. All bonds issued under the provisions of this Act shall be executed in the name of the District, shall be signed by the President and Secretary of the Board of Directors and shall have the official seal of the District impressed thereon. The tax authorized to be levied in payment of the bonds shall be levied upon all taxable property situated in said District in an amount and at a rate sufficient to pay the interest as it accrues and create a sinking fund to retire said bonds as such bonds mature, and such tax shall be assessed and collected annually.

Sec. 14. The District is hereby authorized to issue its negotiable bonds, secured only by pledge of net revenues to be derived from the operation of any of its works, plants or facilities, and in such amounts as may be authorized by the Directors, to provide funds for the construction or purchase, improvement, extension, repair, replacement or betterment of waterworks systems, storm sewers, sanitary sewer systems, sewage disposal plants or any other improvements, works, plants or facilities deemed by the Board of Directors as essential or convenient for the accomplishment of its purposes. The term "net revenue" as used in this Act shall be construed to mean the revenues of the District from whatever source derived, except taxes, remaining after the payment of all costs of collection of such revenues, all costs of operation and maintenance, depreciation and necessary replacements of such works, plants and facilities, owned or acquired or controlled by the District. All such bonds shall be authorized by resolution of the Board of Directors, concurred in by a majority of the members of the Board without the necessity of an election, and shall bear interest at not exceeding five per cent (5%) per annum, mature serially or otherwise not more than forty (40) years from their date, be payable at such place or places as such resolution shall provide, be signed by the President and Secretary of the Board and have the seal of the District affixed thereto. Such bonds are sometimes referred to in this Act as "Revenue Bonds". In the discretion of the Board of Directors it may defer the issuance of Revenue Bonds on any occasion until the proposition for the issuance of such bonds may be submitted at an election, which shall be called and held in the manner provided in Section 13 hereof for the voting of tax bonds, and unless such election shall have resulted favorably to the issuance of the Revenue Bonds. The resolution authorizing any such bonds may contain provisions which shall be a part of the contract between the District and the bondholders. Such resolution may include among other provisions any of the following:

(a) Reserving the right to redeem such bonds prior to maturity at such time or times, in such amounts and at such prices as may be thus provided, but in no event shall the price so fixed for prior redemption ever exceed one hundred and five per cent (105%) of the principal amount of such bonds plus accrued interest;

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

(c) pledging to secure the payment thereof all or any part of the net revenues thereafter received by the District in respect of the property, real, personal, or mixed, acquired or to be acquired or constructed with such bonds or the proceeds thereof, or all of any part of the net revenues thereafter received by the District from whatsoever source, except taxes;

(d) prescribing the purposes to which the proceeds of such bonds or any bonds thereafter to be issued may be applied;

(e) covenant to fix and collect fees, rates and charges for use of works, plants and facilities sufficient to produce net revenues adequate

to pay such bonds, plus interest, and prescribing the use and disposition of all District revenues except taxes;

(f) prescribing limitations upon the issuance of additional revenue bonds and upon all agreements which may be made between the District and the purchasers and subsequent holders of bonds to be issued subsequently;

(g) providing for the construction, extension, improvement, operation, maintenance, depreciation, replacement and betterment of the properties of the District and carrying insurance of any and all kinds upon all or part of its properties;

(h) fixing the procedure, by which any contract with the bondholders may be amended and for the execution and delivery of an indenture or agreement for the benefit of the holders of such bonds, which indenture or agreement may define "events of default" and prescribe the remedies therefor and contain such other items, conditions and covenants as may be agreed upon that are not inconsistent with the provisions of this Act or the Constitution of the State of Texas.

Sec. 15. All bonds issued by authority of this Act may be (1) sold for cash at public or private sale, at such price or prices as the Board of Directors shall determine at not less than par and accrued interest, (2) may be issued on such terms as the Board of Directors shall determine in exchange for property of any kind which the Board shall deem necessary or convenient for any corporate purposes, or (3) without the necessity of an election may be issued to refund any bonds issued at any time under authority of this Act; provided that before any bonds are sold or otherwise delivered they shall be submitted to and approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas in the manner and with the effect provided in Article 709 to 715, inclusive, Revised Civil Statutes of Texas, 1925.

Sec. 16. Whenever any city, town, or political subdivision situated within said District shall have issued its bonds and shall have applied the proceeds thereof to the purchase and construction or repair and improvement of any works, plants or facilities, and it shall be determined by the Board of Directors that it will be beneficial and to the best interests of the District to acquire such works, plants, or facilities in whole or in part and operate same in furtherance of its authorized purposes the District in addition to any other consideration which might be paid in the acquisition of such properties shall have the authority to issue its bonds, hereinafter called "Compensation Bonds", in an amount equal to the amount of bonds outstanding, the proceeds of which were spent by any such city, town or political subdivision, in the construction, purchase, repair, or improvement of the works, plants or facilities or any part thereof thus to be acquired by the District. No such bonds shall be so issued until there shall have been submitted to the resident qualified property taxpaying electors of the District the question as to whether such bonds shall be issued and a tax levied upon the property in the District subject to taxation for the purpose of paying the interest on said bonds and to provide a sinking fund for their redemption at maturity. Such election shall be called and held as provided for the voting of tax bonds authorized in this Act.

Sec. 17. If the proposition to issue such Compensation Bonds and to levy a tax in payment thereof shall have received a favorable vote and the bonds shall have been approved and registered as provided in Section 15 of this Act, the Board of Directors at the earliest practicable date thereafter shall deposit with the proper officials of such city, town or political subdivision for the credit of the interest and sinking fund an amount of District bonds equal to the amount of bonds then outstanding

against such city, town or political subdivision thus to be compensated as provided in the next proceeding section. The resolution of the Board of Directors authorizing the deposit of such Compensation Bonds for the credit of the interest and sinking fund of such city, town or political subdivision shall be submitted to the Attorney General of Texas for approval concurrently with the submission to him of the proceedings authorizing the issuance of such bonds before such Compensation Bonds shall be so deposited, provided that the resolution authorizing the deposit of such bonds shall provide that the bonds are deposited as a guaranty for the payment of the outstanding bonds of such city, town or political subdivision and that such bonds shall not be drawn down except by proper resolution of the Board of Directors reciting the reasons therefor and providing for satisfaction of the guaranty in an amount equal to the bonds withdrawn as in this section provided.

The governing body of such city, town or political subdivision shall not be required to collect taxes for the payment of the bonds thus compensated, so long as the District shall pay the interest and the principal as it matures on the Compensation Bonds deposited to said interest and sinking fund. There shall be surrendered to the District concurrently with such payment the respective maturing interest coupons and bonds in an amount equivalent to such payment and thereupon the coupons and bonds so surrendered shall be cancelled by the District. The District may reserve the right to take up, uncanceled, any of said Compensation Bonds by surrendering in lieu thereof for cancellation a like principal amount of the bonds of such city, town or political subdivision for which the Compensation Bonds were issued, provided the bonds surrendered shall have the same maturities as the Compensation Bonds thus taken up. Such reserved right shall be stated in or stamped on such bonds. The funds thus received and credited to the interest and sinking fund of the bonds so compensated shall be used solely for the payment of interest and principal maturing on such outstanding bonds.

Sec. 18. Such Compensation Bonds shall be issued in similar denominations, bear the same rate of interest payable at same time, having the same principal maturity dates and similar options of prior payment, if any, as the outstanding bonds of the city, town or political subdivision thus to be compensated; provided said District bonds shall be dated on a date after the election at which they were authorized.

Sec. 19. The District without the necessity of an election is hereby authorized to issue its refunding bonds in exchange for or in lieu of any of its bonds (including Compensation Bonds) theretofore legally issued and outstanding. Such refunding bonds may mature serially or otherwise, with or without option or prior payment, not more than forty (40) years from their date, bearing interest at the same or a lower rate than that borne by the bonds then to be refunded, provided that such refunding bonds may bear an interest coupon rate greater than that borne by the bonds to be refunded if it is shown mathematically that a saving in total interest cost will result therefrom. All such refunding bonds shall be submitted to the Attorney General of Texas for approval and the Comptroller of Public Accounts for registration in the manner and with the same effect as provided by general law for the authorization, issuance and delivery of refunding bonds by counties.

Sec. 20. The Assessor and Collector of taxes of Bexar County shall, ex officio, be the Assessor and Collector of taxes for the District. The blanks used by the Assessor and Collector to accept rendition of property for taxation by the County shall be printed so as to show that the rendition of property situated in the District is also made for the benefit of the District. The property which is situated in the District shall be

clearly indicated on the approved tax rolls in the office of the Assessor and Collector. The value of property situated in the District as equalized by the Board of Equalization of Bexar County, finally approved by the Commissioners Court of Bexar County and as extended on the approved tax rolls of Bexar County shall constitute the assessed values of such property for purposes of District taxation. Within five (5) days after the approval of the report of the Board of Equalization by the Commissioners Court of the County, the Assessor and Collector of taxes shall certify to the District the total assessed valuation of property situated in the District according to such approved rolls.

Sec. 21. Within ten (10) days after the amount of assessed valuations of property shall have been certified to the District by the Assessor and Collector, it shall be the duty of the Board of Directors to fix the tax rate of the District for the current year and to certify such rate to the Assessor and Collector immediately after it shall have been fixed. The Assessor and Collector shall extend on the tax rolls as to each item of property shown on the tax rolls to be situated in the District the amount of tax levied by and for the District. At the time the Assessor and Collector makes collection of taxes for State and County purposes he shall at the same time collect the taxes levied for the District, and shall not accept payment of taxes levied against any property for State and County purposes without at the same time collecting the tax so levied for the District. For his services thus rendered to the District in assessing and collecting such taxes, the Assessor and Collector shall be entitled to deduct from all taxes thus collected on the current year's tax rolls a sum equivalent to one per cent (1%) thereof, and for the collection of delinquent taxes compensation in like manner to that which he receives in collecting delinquent State and County taxes, provided that no duplicated charge shall be made for costs of suit where a charge is made in reference to enforcement of State and County taxes.

Sec. 22. The provisions of Chapters 1 to 11, inclusive, Title 122 of the Revised Civil Statutes of Texas, 1925, as amended, relating to the assessing and collecting of taxes by the State and Counties of Texas, except where in conflict with provisions of this Act, shall apply to the assessing and collecting of such taxes.

Sec. 23. The District shall have the right to fix and collect charges, fees or tolls for the use of its sanitary systems and facilities or for any services rendered by said systems or facilities and to contract with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, for the billing and collecting of such charges, fees or tolls simultaneously with the collection of charges for water service, and the District shall have the right to impose penalties for failure to pay when due such charges, fees or tolls. The rights and powers herein conferred shall not be construed to limit the further right and power of the District to fix and collect charges, fees and tolls for any service which may be rendered by any of the works, plants and facilities owned or controlled, and operated by the District in performance of any of the purposes or functions for which it is created, nor shall it be so construed as to deprive the District of the right to impose penalties for failure to pay such charges, fees or tolls as may be thus fixed, when due.

Sec. 24. In connection with the power of the District to promulgate rules and regulations for the operation, maintenance, and functions of the District and to enforce proper observance thereof all home rule cities and all cities and towns operating under general law located within the District are authorized to pass ordinances in harmony with all such rules and regulations as may be adopted by the District or in the alternative

the District is authorized to enforce its own rules and regulations within such cities and towns. It shall be the duty of such cities and towns to enforce observance of all such ordinances. The duties imposed and the powers conferred on such cities and towns with reference to such rules and regulations shall likewise be applicable to Bexar County.

Sec. 25. All cities and towns, including home rule cities and political subdivisions situated in the District, shall have the power to grant to the District the right to operate and maintain such works, plants or facilities as may be located in such cities and towns and which may be deemed by the District to be necessary or convenient to accomplish the purposes of the District. The terms and conditions of such grant may be such as may be agreed upon between any such cities, towns or political subdivisions and the District taking into consideration the purposes and objects for which the District is created.

Sec. 26. The negotiable tax bonds authorized by this Act shall be eligible for purchase for any public funds in accordance with the laws governing investment of such public funds and shall be eligible to secure public funds on deposit in duly qualified depositories of the State and any municipal corporation, county or other political subdivision thereof.

Sec. 27. Any obligation issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing District of the State.

Sec. 28. Nothing contained in this Act shall be construed as affecting the San Antonio River Canal and Conservancy District as created by Acts 1937, Forty-fifth Legislature, House Bill No. 726, as amended, nor as restricting, modifying or affecting in any manner or to any extent the authority, powers and functions of said San Antonio River Canal and Conservancy District nor as amending any law or statute relating thereto.

Sec. 29. Nothing contained in this Act shall be construed to diminish, or in any other manner affect, the power of the City of San Antonio to operate its municipal water supply system, nor the use of the subterranean waters of the City of San Antonio. Nor shall anything contained in this Act be construed to affect, diminish or impair any of the other powers now vested in the City of San Antonio by its Charter and the Statutes of the State of Texas, nor as amending or repealing any law relating thereto.

Sec. 30. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 31. The fact that the facilities now provided in the area comprised by this District are inadequate and insufficient to properly control and preserve the purity and utility of the surface and underground waters therein and the fact that the accumulation of sewage, wastes, refuse and other residuum imperils the health and safety of the inhabitants of such a large densely populated area, including several incorporated cities, unincorporated communities, army camps and army installations create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days be suspended, and said Rule is hereby suspended, and that this Act become effective immediately from and after its passage and it is so enacted.

COUNTY ATTORNEYS AND ASSISTANTS—COMPENSATION Ch. 307

Passed by the House, May 1, 1945: Yeas 127, Nays 0; House concurred in Senate amendments, May 10, 1945: Yeas 116, Nays 0; passed by the Senate, as amended, May 9, 1945: Yeas 27, Nays 0. Filed without the Governor's signature June 4, 1945. Effective May 28, 1945.

COUNTY ATTORNEYS AND ASSISTANTS—COMPENSATION

CHAPTER 307 <sup>21</sup>

H. B. No. 855

An Act providing for compensation of county attorneys and their assistants and employees in counties having a population of more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, general or special, where there is no resident district attorney or criminal district attorney; authorizing such county attorneys to appoint assistants and employees as provided for district attorneys and criminal district attorneys in Section 1, House Bill No. 148, Chapter 68, Acts of the Forty-fifth Legislature, Second Called Session; and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

Section 1. The county attorney, in counties having a population of more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, general or special, where there is no resident district attorney or criminal district attorney, shall receive the same salary as provided for district attorneys or criminal district attorneys in Section 1-a, Senate Bill No. 374, Chapter 26, Acts of the Forty-fifth Legislature, Regular Session, 1937, and said salary shall be paid in equal monthly installments; such county attorneys shall be authorized to appoint assistants and employees in the same manner as is provided for district attorneys or criminal district attorneys under the provisions of Section 1, House Bill No. 148, Chapter 68, Acts of the Forty-fifth Legislature, Second Called Session; such assistants and employees shall be compensated for their services in the same manner and amounts as is provided for the compensation of assistants and employees of district or criminal district attorneys under the provisions of said Section 1, House Bill No. 148, Chapter 68, Acts of the Forty-fifth Legislature, Second Called Session.

Sec. 2. The fact that under the existing law adequate provision is not made to compensate the county attorney in counties with a population of more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills be read on three several days in each House be, and the same is hereby, suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed by the House, May 1, 1945: Yeas 126, Nays 2; passed by the Senate, May 16, 1945: Yeas 28, Nays 0.

Filed without the Governor's signature June 4, 1945. Effective May 30, 1945.

<sup>21</sup> Vernon's Ann.Civ.St., art. 3912e—3.



AN ACT

1 relating to the powers of Bexar Metropolitan Water District.  
2

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

4 SECTION 1. Section 2, Chapter 306, Acts of the 49th  
5 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's  
6 Texas Civil Statutes), is amended to read as follows:

7 Sec. 2. The District is hereby created as a governmental  
8 agency, a body politic and corporate, and a municipal corporation,  
9 vested with all the authority as such under the Constitution and  
10 laws of the State of Texas; and shall have and be empowered to  
11 exercise all the rights, privileges, functions, and powers of such  
12 governmental agency and body politic and corporate as authorized or  
13 implied by the provisions of Article 16, Section 59 of the  
14 Constitution and as have been or may be conferred by General Law  
15 upon conservation districts and as authorized or implied by the  
16 provisions of this Act, for the purpose of controlling, conserving,  
17 protecting, preserving, distributing, and utilizing the storm and  
18 flood waters of the rivers and streams situated in said District  
19 ~~[and the underground waters situated thereunder]~~ and for the  
20 purpose of regulating and controlling the disposal of sewage,  
21 wastes, and other refuse, and the collection and disposal thereof,  
22 to prevent the contamination and pollution of the public waters of  
23 the District. It shall have the power to formulate and execute any  
24 and all plans deemed essential to the accomplishment of the

1 purposes for which it is created and shall be recognized to have  
2 such authority and power of control and regulation over the storm  
3 and flood waters of its rivers and streams [~~and its underground~~  
4 ~~waters~~] as may be exercised by the State of Texas, subject to the  
5 provisions of the Constitution and Section 4 of this Act.

6 SECTION 2. Section 3, Chapter 306, Acts of the 49th  
7 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's  
8 Texas Civil Statutes), is amended to read as follows:

9 Sec. 3. In addition to the powers vested by the Constitution  
10 and general laws in such public agency for the greatest practicable  
11 measure of the conservation, preservation, and beneficial  
12 utilization of its public waters, the power to control and utilize  
13 its public waters and to regulate the disposal and the disposal of  
14 sewage, waste, and refuse, the District shall have the following  
15 general powers:

16 (a) Through every practical and legal means to develop,  
17 transport, deliver, distribute, store, and treat water for use  
18 within the District, including [~~control and regulate and to~~  
19 ~~coordinate the control and regulation of the waters of the~~  
20 ~~watershed of the San Antonio River and tributaries in the District~~  
21 ~~and~~] the storm and flood [~~and underground~~] waters within [~~of~~] the  
22 District, including the power to cooperate with the United States  
23 Government or any agency thereof, or any municipality, public,  
24 quasi-public or private agency and to contract, negotiate, and  
25 enter into agreements with any one or more of such agencies in  
26 effecting such purposes;

27 (b) to store, control, and conserve storm and flood waters

1 of its rivers and streams and to prevent the escape of any such  
2 waters without first obtaining therefrom a maximum of public  
3 service; to prevent devastation of property from overflow and to  
4 protect life and property from uncontrolled flood and storm waters;

5 (c) to conserve and distribute waters essential for  
6 domestic and other uses by the inhabitants of the District,  
7 including necessary water supply for cities and towns situated  
8 within the District;

9 (d) to provide for the development of drainage systems to  
10 control, regulate, and dispose of all storm and flood waters of the  
11 District so as to protect effectively lives and property, and to  
12 utilize such waters for each and every purpose for which flood and  
13 storm waters when controlled, conserved, or regulated may be  
14 utilized as contemplated by the Constitution and the public policy  
15 therein declared;

16 (e) to provide by purchase, construction, lease, gift, or in  
17 any other manner and to operate any and all facilities deemed by the  
18 District essential for preserving the purity of all the surface and  
19 underground waters of the District for the protection of the health  
20 of its inhabitants, and to formulate plans to make and enforce rules  
21 and regulations for the effective disposal of any and all sewage  
22 wastes, refuse, or residuum, however accumulated; which otherwise  
23 would contaminate, pollute, or render unsafe and insanitary the  
24 surface and underground waters of the District and which might  
25 threaten or impair the health of its inhabitants or which might  
26 adversely affect the health of the inhabitants downstream below the  
27 District;

1           (f) to acquire by purchase, construction, lease, gift, or in  
2 any other manner (otherwise than by condemnation) and to maintain,  
3 use, and operate any and all property of any kind, real, personal,  
4 or mixed, or any interest therein within or without the boundaries  
5 of the District deemed by its Board of Directors necessary or  
6 convenient to the exercise of the powers, rights, privileges, and  
7 functions conferred upon it by this Act;

8           (g) to acquire by condemnation any and all property of any  
9 kind, real, personal, or mixed, or any interest therein, within or  
10 outside of the boundaries of the District, necessary to the  
11 exercise of the powers, rights, privileges, and functions conferred  
12 by this Act, in the manner provided by General Law relative to  
13 condemnation, or at the option of the District, in the manner  
14 provided by law with respect to condemnation by agencies organized  
15 pursuant to Section 59, Article 16 of the Constitution of the State  
16 of Texas; provided that the District shall not have the right or  
17 power to so condemn any such property that may be owned by any other  
18 political subdivision, city, or town located within the District;

19           (h) to cooperate, contract, and enter into agreements with  
20 towns, cities, districts, or political subdivisions located in or  
21 outside of the District and with Bexar County, in the construction,  
22 purchase, lease, maintenance, improvement, use, and operation of  
23 any and all facilities, works, and plants necessary or convenient  
24 to the accomplishment of the purposes for which the District was  
25 created;

26           (i) to make contracts with any person, private corporation,  
27 municipal corporation, political subdivision, or the Board of

1 Trustees thereof, operating water distribution facilities for the  
2 benefit of a city or town within the District, under which the  
3 District may perform services for such parties or such parties may  
4 perform services for the District, or under which either may  
5 operate all or any part of the facilities of the other, having due  
6 regard for the duties and obligations of such parties in the  
7 instrument prescribing their or its duties;

8 (j) to construct, extend, improve, maintain, and  
9 reconstruct, to cause to be constructed, extended, improved,  
10 maintained, or reconstructed and to use and operate any and all  
11 facilities of any kind necessary or convenient to the exercise of  
12 the powers, rights, privileges, and functions conferred by this  
13 Act;

14 (k) to sue and be sued in its corporate name;

15 (l) to make by-laws for the management and regulation of its  
16 affairs conformably to the powers and purposes herein conferred and  
17 consistent with the Constitution of this State;

18 (m) to make rules and regulations and to prescribe penalties  
19 for the breach of any rule or regulation of the District, which  
20 penalties shall not exceed fines of more than Two Hundred Dollars  
21 (\$200), or imprisonment for more than thirty (30) days, or may  
22 provide both such fine and such imprisonment. The penalties hereby  
23 authorized shall be in addition to any other penalties provided by  
24 the laws of Texas and may be enforced by complaints filed in the  
25 appropriate court of jurisdiction in the county in which the  
26 district's principal office is located; provided, however, that no  
27 rule or regulation which provides a penalty for the violation

1    thereof shall be in effect, as to enforcement of the penalty, until  
2    five days next after the district may have caused a substantive  
3    statement of the particular rule or regulation and the penalty for  
4    the violation thereof to be published, once a week for two  
5    consecutive weeks, in one or more newspapers affording general  
6    circulation in the area in which the property of the district is  
7    situated; and, the substantive statement so to be published shall  
8    be as condensed as is possible to afford an intelligent direction of  
9    the mind to the object sought to be accomplished or the act  
10   forbidden by the rule or regulation; one notice may embrace any  
11   number of regulations; there must be embraced in the notice advice  
12   that breach of the particular regulation, or regulations, will  
13   subject the violator to the infliction of a penalty and there also  
14   shall be included in the notice advice that the full text of the  
15   regulation sought to be enforced is on file in the principal office  
16   of the District, where the same may be read by any interested  
17   person. Five (5) days after the second publication of the notice  
18   hereby required, the advertised regulation shall be in effect, and  
19   ignorance of any such regulation shall not constitute a defense to a  
20   prosecution for the enforcement of a penalty; and, the rules and  
21   regulations authorized hereby, after the required publication,  
22   shall judicially be known to the courts and shall be considered of a  
23   nature like unto that of valid penal ordinances of a city of the  
24   State;

- 25            (n) to adopt, use, and alter a corporate seal;  
26            (o) to appoint agents and employees; prescribe their duties  
27   and fix their compensation;

1           (p) to make contracts and execute instruments necessary or  
2 convenient to the exercise of the powers, rights, privileges, and  
3 functions herein conferred;

4           (q) to borrow money for its authorized purposes, to accept  
5 grants or loans or allotments from the United States Government or  
6 any of its agencies, or others, and in connection with any such  
7 grants, loans, or allotments to enter into such agreements as may be  
8 required to make them effective, and for the purpose of obtaining  
9 funds to issue its negotiable tax bonds and its negotiable revenue  
10 bonds in the manner and to the extent hereinafter provided;

11           (r) to operate and maintain with consent of the governing  
12 body of any city, town, or political subdivision located in the  
13 District any works, plants, or facilities deemed necessary or  
14 convenient to the accomplishment of the purposes for which the  
15 District is created;

16           (s) to enter into planning agreements with the Texas Water  
17 Development Board under Subchapter C, Chapter 16, Water Code, for  
18 the purpose of conducting studies necessary to maintain retail  
19 water supply services to customers within the boundaries of the  
20 District; and

21           (t) to cooperate with and support local fire departments and  
22 economic development activities sponsored by local entities within  
23 the District that use water and water resources provided, or to be  
24 provided, by the District.

25           SECTION 3. Chapter 306, Acts of the 49th Legislature,  
26 Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil  
27 Statutes), is amended by adding Section 5A to read as follows:

1       Sec. 5A. (a) The District's boundaries for purposes of the  
2       exercise of its powers and duties is defined in Section 5 of this  
3       Act.

4       (b) In conformity with the court's judgment dated April 22,  
5       1996, in Cause No. SA96CA0335, Rios v. Bexar Metropolitan Water  
6       District et al., in the United States District Court, Western  
7       District of Texas, and for the purpose of the exercise of its  
8       current retail water utility services, the District's boundaries  
9       shall include the territory defined in all or applicable portions  
10       of census tracts or property situated within any area certificated  
11       by the Texas Commission on Environmental Quality to the District on  
12       the date of passage of the Act adding this section pursuant to  
13       Certificates of Convenience and Necessity Nos. 10675, 12759, and  
14       12760.

15       SECTION 4. Sections 6, 6a, and 20, Chapter 306, Acts of the  
16       49th Legislature, Regular Session, 1945 (Article 8280-126,  
17       Vernon's Texas Civil Statutes), are repealed.

18       SECTION 5. (a) This Act takes effect immediately if it  
19       receives a vote of two-thirds of all the members elected to each  
20       house, as provided by Section 39, Article III, Texas Constitution.  
21       If this Act does not receive the vote necessary for immediate  
22       effect, this Act takes effect September 1, 2003.

23       (b) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts  
24       of the 49th Legislature, Regular Session, 1945 (Article 8280-126,  
25       Vernon's Texas Civil Statutes), does not affect an annexation  
26       proceeding initiated before the effective date of this Act. An  
27       annexation proceeding initiated before the effective date of this



S.B. No. 1494

1 Act is governed by the law in effect immediately before the  
2 effective date of this Act, and the former law is continued in  
3 effect for that purpose.

4 (c) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts  
5 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,  
6 Vernon's Texas Civil Statutes), does not affect a pending  
7 application for a certificate of convenience and necessity that has  
8 been referred by the Texas Commission on Environmental Quality to  
9 the State Office of Administrative Hearings before the effective  
10 date of this Act. An application referred before the effective date  
11 of this Act is governed by the law in effect immediately before the  
12 effective date of this Act, and the former law is continued in  
13 effect for that purpose.

S.B. No. 1494

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1494 passed the Senate on May 13, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2003, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1494 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

By: Madla

S.B. No. 1494

A BILL TO BE ENTITLED

AN ACT

relating to the powers of Bexar Metropolitan Water District.

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

SECTION 1. Section 2, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. The District is hereby created as a governmental agency, a body politic and corporate, and a municipal corporation, vested with all the authority as such under the Constitution and laws of the State of Texas; and shall have and be empowered to exercise all the rights, privileges, functions, and powers of such governmental agency and body politic and corporate as authorized or implied by the provisions of Article 16, Section 59 of the Constitution and as have been or may be conferred by General Law upon conservation districts and as authorized or implied by the provisions of this Act, for the purpose of controlling, conserving, protecting, preserving, distributing, and utilizing the storm and flood waters of the rivers and streams situated in said District ~~[and the underground waters situated thereunder]~~ and for the purpose of regulating and controlling the disposal of sewage, wastes, and other refuse, and the collection and disposal thereof, to prevent the contamination and pollution of the public waters of the District. It shall have the power to formulate and execute any and all plans deemed essential to the accomplishment of the

1 Trustees thereof, operating water distribution facilities for the  
2 benefit of a city or town within the District, under which the  
3 District may perform services for such parties or such parties may  
4 perform services for the District, or under which either may  
5 operate all or any part of the facilities of the other, having due  
6 regard for the duties and obligations of such parties in the  
7 instrument prescribing their or its duties;

8 (j) to construct, extend, improve, maintain, and  
9 reconstruct, to cause to be constructed, extended, improved,  
10 maintained, or reconstructed and to use and operate any and all  
11 facilities of any kind necessary or convenient to the exercise of  
12 the powers, rights, privileges, and functions conferred by this  
13 Act;

14 (k) to sue and be sued in its corporate name;

15 (l) to make by-laws for the management and regulation of its  
16 affairs conformably to the powers and purposes herein conferred and  
17 consistent with the Constitution of this State;

18 (m) to make rules and regulations and to prescribe penalties  
19 for the breach of any rule or regulation of the District, which  
20 penalties shall not exceed fines of more than Two Hundred Dollars  
21 (\$200), or imprisonment for more than thirty (30) days, or may  
22 provide both such fine and such imprisonment. The penalties hereby  
23 authorized shall be in addition to any other penalties provided by  
24 the laws of Texas and may be enforced by complaints filed in the  
25 appropriate court of jurisdiction in the county in which the  
26 district's principal office is located; provided, however, that no  
27 rule or regulation which provides a penalty for the violation

1    thereof shall be in effect, as to enforcement of the penalty, until  
2    five days next after the district may have caused a substantive  
3    statement of the particular rule or regulation and the penalty for  
4    the violation thereof to be published, once a week for two  
5    consecutive weeks, in one or more newspapers affording general  
6    circulation in the area in which the property of the district is  
7    situated; and, the substantive statement so to be published shall  
8    be as condensed as is possible to afford an intelligent direction of  
9    the mind to the object sought to be accomplished or the act  
10   forbidden by the rule or regulation; one notice may embrace any  
11   number of regulations; there must be embraced in the notice advice  
12   that breach of the particular regulation, or regulations, will  
13   subject the violator to the infliction of a penalty and there also  
14   shall be included in the notice advice that the full text of the  
15   regulation sought to be enforced is on file in the principal office  
16   of the District, where the same may be read by any interested  
17   person. Five (5) days after the second publication of the notice  
18   hereby required, the advertised regulation shall be in effect, and  
19   ignorance of any such regulation shall not constitute a defense to a  
20   prosecution for the enforcement of a penalty; and, the rules and  
21   regulations authorized hereby, after the required publication,  
22   shall judicially be known to the courts and shall be considered of a  
23   nature like unto that of valid penal ordinances of a city of the  
24   State;

- 25            (n) to adopt, use, and alter a corporate seal;  
26            (o) to appoint agents and employees; prescribe their duties  
27   and fix their compensation;

1           (p) to make contracts and execute instruments necessary or  
2 convenient to the exercise of the powers, rights, privileges, and  
3 functions herein conferred;

4           (q) to borrow money for its authorized purposes, to accept  
5 grants or loans or allotments from the United States Government or  
6 any of its agencies, or others, and in connection with any such  
7 grants, loans, or allotments to enter into such agreements as may be  
8 required to make them effective, and for the purpose of obtaining  
9 funds to issue its negotiable tax bonds and its negotiable revenue  
10 bonds in the manner and to the extent hereinafter provided;

11          (r) to operate and maintain with consent of the governing  
12 body of any city, town, or political subdivision located in the  
13 District any works, plants, or facilities deemed necessary or  
14 convenient to the accomplishment of the purposes for which the  
15 District is created;

16          (s) to cooperate, contract, and enter into agreements with  
17 towns, cities, districts, or political subdivisions located in or  
18 outside of the District to plan for the development of the regional  
19 water resources under Subchapter C, Chapter 16, Water Code; and to  
20 cooperate for the safe and economical collection, transportation,  
21 treatment, and disposal of waste in order to prevent and control  
22 pollution of water under Subchapter B, Chapter 30, Texas Water  
23 Code; and to cooperate and support local Fire departments and  
24 economic development activities sponsored by local entities  
25 requiring use of water, wastewater, and water resources provided by  
26 or to be provided by the District; and

27          (t) to enforce the federal Clean Water Act (33 U.S.C.

1 purposes for which it is created and shall be recognized to have  
2 such authority and power of control and regulation over the storm  
3 and flood waters of its rivers and streams ~~[and its underground~~  
4 ~~waters]~~ as may be exercised by the State of Texas, subject to the  
5 provisions of the Constitution and Section 4 of this Act.

6 SECTION 2. Section 3, Chapter 306, Acts of the 49th  
7 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's  
8 Texas Civil Statutes), is amended to read as follows:

9 Sec. 3. In addition to the powers vested by the Constitution  
10 and general laws in such public agency for the greatest practicable  
11 measure of the conservation, preservation, and beneficial  
12 utilization of its public waters, the power to control and utilize  
13 its public waters and to regulate the disposal and the disposal of  
14 sewage, waste, and refuse, the District shall have the following  
15 general powers:

16 (a) Through every practical and legal means to develop,  
17 transport, deliver, distribute, store and treat water including  
18 ~~[control and regulate and to coordinate the control and regulation~~  
19 ~~of the waters of the watershed of the San Antonio River and~~  
20 ~~tributaries in the District and]~~ the storm and flood ~~[and~~  
21 ~~underground]~~ waters within or without ~~[of]~~ the District, including  
22 the power to cooperate with the United States Government or any  
23 agency thereof, or any municipality, public, quasi-public or  
24 private agency and to contract, negotiate, and enter into  
25 agreements with any one or more of such agencies in effecting such  
26 purposes;

27 (b) to store, control, and conserve storm and flood waters

1 of its rivers and streams and to prevent the escape of any such  
2 waters without first obtaining therefrom a maximum of public  
3 service; to prevent devastation of property from overflow and to  
4 protect life and property from uncontrolled flood and storm waters;

5 (c) to conserve and distribute waters essential for  
6 domestic and other uses by the inhabitants of the District,  
7 including necessary water supply for cities and towns situated  
8 within the District;

9 (d) to provide for the development of drainage systems to  
10 control, regulate, and dispose of all storm and flood waters of the  
11 District so as to protect effectively lives and property, and to  
12 utilize such waters for each and every purpose for which flood and  
13 storm waters when controlled, conserved, or regulated may be  
14 utilized as contemplated by the Constitution and the public policy  
15 therein declared;

16 (e) to provide by purchase, construction, lease, gift, or in  
17 any other manner and to operate any and all facilities deemed by the  
18 District essential for preserving the purity of all the surface and  
19 underground waters of the District for the protection of the health  
20 of its inhabitants, and to formulate plans to make and enforce rules  
21 and regulations for the effective disposal of any and all sewage  
22 wastes, refuse, or residuum, however accumulated; which otherwise  
23 would contaminate, pollute, or render unsafe and insanitary the  
24 surface and underground waters of the District and which might  
25 threaten or impair the health of its inhabitants or which might  
26 adversely affect the health of the inhabitants downstream below the  
27 District;



1           (f) to acquire by purchase, construction, lease, gift, or in  
2 any other manner (otherwise than by condemnation) and to maintain,  
3 use, and operate any and all property of any kind, real, personal,  
4 or mixed, or any interest therein within or without the boundaries  
5 of the District deemed by its Board of Directors necessary or  
6 convenient to the exercise of the powers, rights, privileges, and  
7 functions conferred upon it by this Act;

8           (g) to acquire by condemnation any and all property of any  
9 kind, real, personal, or mixed, or any interest therein, within or  
10 outside of the boundaries of the District, necessary to the  
11 exercise of the powers, rights, privileges, and functions conferred  
12 by this Act, in the manner provided by General Law relative to  
13 condemnation, or at the option of the District, in the manner  
14 provided by law with respect to condemnation by agencies organized  
15 pursuant to Section 59, Article 16 of the Constitution of the State  
16 of Texas; provided that the District shall not have the right or  
17 power to so condemn any such property that may be owned by any other  
18 political subdivision, city, or town located within the District;

19           (h) to cooperate, contract, and enter into agreements with  
20 towns, cities, districts, or political subdivisions located in or  
21 outside of the District and with Bexar County, in the construction,  
22 purchase, lease, maintenance, improvement, use, and operation of  
23 any and all facilities, works, and plants necessary or convenient  
24 to the accomplishment of the purposes for which the District was  
25 created;

26           (i) to make contracts with any person, private corporation,  
27 municipal corporation, political subdivision, or the Board of

1 Section 1251 et seq.), as amended, and federal Safe Drinking Water  
2 Act (42 U.S.C. Section 300f et seq.), as amended, in accordance with  
3 State and federal law, and to, within or without the District,  
4 prohibit the pollution or degradation of a stream, recharge  
5 feature, drain, recharge area or tributary that may constitute or  
6 recharge the source water supply of the District by means of septic  
7 system or other pollutant-discharging mechanism.

8 SECTION 3. Sections 6 and 6a, Chapter 306, Acts of the 49th  
9 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's  
10 Texas Civil Statutes), are superseded and deleted.

11 SECTION 4. Section 5, Chapter 306, Acts of the 49th  
12 Legislature, Regular Session, 1945 (Article 8280-126 Vernon's  
13 Texas Civil Statutes); is amended to read as follows:

14 SECTION 5. In conformity with the Court's Judgment dated  
15 April 22, 1996 in Cause No. SA96CA0335, Rios V. Bexar Metropolitan  
16 Water District, (U.S. District Court - W.D. Texas) and as provided  
17 by Chapter 13 of the Texas Water Code, orders of the Texas  
18 Commission on Environmental Quality providing for the granting and  
19 issuance of Certificates of Convenience and Necessity pursuant to  
20 Section 13.242, Texas Water Code, existing at the time of passage of  
21 this act and established in the future, shall define the boundaries  
22 of the District, and the District's present boundaries shall  
23 include all or applicable portions of census tracts or property  
24 situated within any area certificated by the Texas Commission on  
25 Environmental Quality to the District on the date of passage of this  
26 Act.

27 SECTION 6. Sec. 20 This section is repealed.