

CHAPTER 775

H.B. No. 2470

An Act relating to the creation, administration, powers, duties, operations, and financing of the Crane County Water District and the authority of that district and other governmental and private entities to contract.

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

SECTION 1. CREATION OF DISTRICT. Pursuant to Article XVI, Section 59, of the Texas Constitution, the Crane County Water District is created as a conservation and reclamation district. The district is a governmental agency and a body politic and corporate.

SECTION 2. DEFINITION. In this Act, "district" means the Crane County Water District.

SECTION 3. BOUNDARIES. The district includes all of the territory in the boundaries of Crane County as the boundaries of that county existed on January 1, 1985.

SECTION 4. BOARD OF DIRECTORS. (a) The district is governed by a board of directors composed of five members. Each director shall occupy a designated place on the board with the places to be designated as Places 1, 2, 3, 4, and 5, respectively.

(b) Two initial directors shall be appointed to occupy Places 1 and 2, and to hold office for terms expiring on June 1, 1986, and three initial directors shall be appointed to occupy Places 3, 4, and 5, and to hold office for terms expiring on June 1, 1987.

(c) The county judge of Crane County and the mayor of the city of Crane shall serve as ex officio members entitled to attend all meetings of the board and participate in all proceedings of the board, but the county judge and mayor are not entitled to vote on matters before the board.

(d) The five regular directors shall be appointed by the Commissioners Court of Crane County.

(e) Except for the initial regular directors, each regular director shall serve for a term of two years and until his successor is appointed and has qualified.

(f) A person serving as director is eligible for reappointment.

(g) A vacancy on the board shall be filled by appointment of the commissioners court for the unexpired term.

(h) To be eligible for appointment as a director, a person must be a resident and qualified elector of the district.

(i) A director may be removed from office by the remaining members of the board for misfeasance, malfeasance, or wilful neglect of duty, but only after reasonable notice and public hearing, unless the notice and public hearing are expressly waived in writing.

(j) A director is not entitled to receive compensation for service as director, but he is entitled to reimbursement for his actual expenses incurred in performing his duties, to the extent authorized and permitted by the board.

SECTION 5. BOARD ORGANIZATION. (a) The board shall elect one director as president of the board, who shall serve for a term of one year. The president shall preside at meetings of the board and shall perform other duties prescribed by the board.

(b) The board shall elect another director as vice-president of the board, who shall serve for a term of one year. The vice-president shall perform the duties of the president when the president is not present or is otherwise incapacitated.

(c) The board shall elect a secretary of the board. The secretary is the official custodian of the minutes, books, records, and seal of the board and shall perform other duties and functions prescribed by the board. The board also shall elect a treasurer of the board who shall perform duties and functions prescribed by the board. The offices of secretary and treasurer may be held by one person, and the holder of either office or both offices is not required to be a director. The board may appoint one or more persons who are not directors to be an assistant secretary of the board, and the assistant secretary may perform any duty or function of the secretary of the board.

(d) Any three regular directors constitute a quorum, and all regular directors are entitled to vote on matters before the board. The district shall act and proceed by and through resolutions adopted by the board, and the affirmative vote of at least three of the regular directors is necessary to adopt any resolution.

(e) The initial president, vice-president, secretary, and treasurer of the board shall be elected at the first meeting of the board after all directors are appointed and have qualified. Subsequently, the officers of the board shall be elected annually at the first meeting of the board in March of each year, or at any time necessary to fill a vacancy of an office.

(f) The board shall have regular meetings at times specified by resolution of the board, and shall have special meetings whenever called by the president or by any three of the directors.

(g) A director is not personally liable for any bonds issued or contracts executed by the district.

SECTION 6. WATER CONSERVATION PROGRAM. The district shall adopt and implement a program of water conservation consistent with rules and criteria duly adopted and enforceable by the Texas Department of Water Resources for similarly situated districts in the region. A program of water conservation means the practices, techniques, and technologies which will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future uses.

SECTION 7. SPECIFIC POWERS. (a) The district may exercise all powers necessary or appropriate to carry out the purposes of this Act including those powers provided by this section.

(b) The district may sue and be sued in its own name.

(c) The board may adopt an official seal and adopt and enforce bylaws and rules that are not inconsistent with this Act.

(d) The district may acquire, hold, use, and dispose of its revenues, income, receipts, funds, and money from every source, and the board may select the district's depository or depositories.

(e) The district may acquire, own, rent, lease, accept, hold, or dispose of any property including rights or easements, or any interest in property, to perform the duties and exercise the powers under this Act. These acquisitions may be made by purchase, exchange, gift, assignment, condemnation, sale, lease, or otherwise. The district may hold, manage, operate, and improve property.

(f) The district may sell, assign, lease, encumber, mortgage, or otherwise dispose of any property or any interest in property, and may release or relinquish any right, title, claim, lien, interest, easement, or demand by public or private sale, with or without public bidding, notwithstanding any other law. The district may lease or rent any land, buildings, structures, or facilities to carry out the purposes of this Act.

(g) The district may request and accept any appropriations, grants, allocations, subsidies, guaranties, aid, contributions, services, labor, materials, gifts, or donations from any person, the federal government, the state, any city, public agency, special district, or other political subdivision of the state.

(h) The district may operate and maintain an office and appoint and determine the duties, tenure, qualifications, and compensation of the officers, employees, agents, and professional advisors and counsellors of the district including financial consultants, accountants, attorneys, architects, engineers, appraisers, and financial experts considered necessary by the board.

(i) The district may issue its bonds, provide for and secure the payment of those bonds, and provide for the rights of the bondholders, in the manner and to the extent permitted by this Act.

(j) The board may set, revise, charge, and collect rates, fees, and charges for the district's facilities and services.

SECTION 8. WATER RIGHTS; STORAGE. (a) The district may obtain water appropriation permits and diversion permits from the Texas Water Commission.

(b) The district may acquire water appropriation permits from owners of permits by contract or otherwise.

(c) The district may lease, purchase, or otherwise acquire rights in and to storage and storage capacity in any reservoir constructed or to be constructed by any person, firm, corporation, public agency, special district or other political subdivision of the state, the state, or the United States or any of its agencies.

SECTION 9. CONTRACTS AND AGREEMENTS. (a) The district may enter into and enforce contracts and agreements for the purchase or sale of water, and for any other purpose relating to its powers. The district may acquire or construct inside or outside its boundaries a reservoir or reservoirs and all works, water wells, water fields, pumps, plants, transmission lines, and other facilities necessary or useful for the purpose of diverting, impounding, drilling, storing, treating, and transporting water to the city of Crane and others for municipal, domestic, industrial, mining, oil flooding, or any other useful purposes.

(b) The district may sell water inside or outside the boundaries of the district and may develop or otherwise acquire underground sources of water.

(c) Any city, public agency, special district, or other political subdivision of the state, including the city of Crane, may enter into contracts and agreements with the district for a water supply, or for any purpose relating to the district's powers or functions, on terms and conditions to which the parties may agree. Also, each entity, including the city of Crane, may lease, sell, or otherwise convey any of its land or any interest in land to the district for consideration agreed on between the parties to be adequate. No approval, notice, consent, or election is required in connection with any contract, agreement, or conveyance.

(d) The rights, powers, privileges, authority, and functions granted to the district by this Act are subject to the continuing right of supervision of the state, to be exercised by and through the Texas Department of Water Resources under the Water Code.

SECTION 10. WATER SUPPLY. The district may acquire land or any interest in land, inside or outside the boundaries of the district, for all works, water wells, water fields, pumps, plants, and other facilities necessary or useful for the purpose of diverting, impounding, drilling, storing, treating, and transporting water to the city of Crane and others for municipal, domestic, industrial, mining, oil flooding, and all other useful purposes. Subject to the terms of any resolution or deed of trust authorizing or securing bonds issued by the district, the district may sell, lease, rent, trade, or otherwise dispose of any property considered by the board not to be needed for district purposes.

SECTION 11. EMINENT DOMAIN. (a) For the purpose of carrying out any power or authority conferred by this Act, the district may acquire the fee simple title to land or any other interest in land and other property and easements, including water rights, land, or any interest in land needed for water fields, water wells, or reservoir and dam and flood easements above the probable high water line around any reservoirs inside or outside the boundaries of the district, by condemnation in the manner provided by Chapter 21, Property Code.

(b) The amount of and character of interest in land, other property, and easements to be acquired shall be determined by the board.

(c) If the district, in the exercise of its power of eminent domain, police power, or any other power, requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph, or telephone lines, conduits, poles, properties, or facilities or pipelines, that relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of those facilities, after deducting the net salvage value derived from the old facility.

SECTION 12. ENTRY ON LAND; RIGHTS-OF-WAY; EASEMENTS. (a) The district may exercise the power provided by general law to water control and improvement districts relating to entering land and making surveys and attending to other business of the district.

(b) The district has necessary or useful rights-of-way and easements along, over, under, and across all public, state, city, and county roads, highways, and places for any of its purposes, but the district shall restore such a facility used by it to its previous condition as nearly as possible at the sole expense of the district as defined by Section 11(c) of this Act.

SECTION 13. CONSTRUCTION CONTRACTS. A construction contract requiring an expenditure of more than \$5,000 may be made only after publication of notice to bidders once each week for two consecutive weeks in a newspaper with general circulation in the district. The notice is sufficient if it states the time and place for the bids to be opened, the general nature of the work to be done or the material, equipment, or supplies to be purchased, and the place where the terms and conditions of bidding and copies of the plans and specifications may be obtained.

SECTION 14. BONDS. (a) To carry out any power or authority conferred by this Act, the district may issue its negotiable bonds payable from and secured by revenues or property taxes, or both revenues and property taxes of the district, in the manner and under the terms and conditions provided by the resolution authorizing the issuance of the bonds.

(b) The bonds must be authorized by resolution of the board and shall be issued in the name of the district, signed by the president or vice-president of the district, and attested by the secretary. The bonds must bear the seal of the district. The signature of the president, the vice-president, or the secretary may be printed or lithographed on the bonds if authorized by the board and the seal of the district may be impressed on the bonds or may be printed or lithographed on the bonds. The bonds shall mature serially or otherwise in not more than 40 years from their date and may be sold at a price and under terms determined by the board to be

the most advantageous reasonably obtainable. The interest cost to the district, including the discount, if any, may not exceed the maximum rate authorized by general law. Within the discretion of the board, the bonds may be made callable before maturity at the times and prices prescribed in the bonds, and are registrable as provided in the bond resolution.

(c) Bonds may be issued in more than one series and at several times as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or any part of the revenues of the district, or by all or any part of the revenues of any one or more contracts of the district or other revenues or income specified by resolution of the board or in any trust indenture securing the bonds. Any pledge may reserve the right, under conditions specified in the pledge, to issue additional bonds that will be on a parity with or subordinate to the bonds being issued.

(e) The district also may issue bonds payable from property taxes to be levied on all taxable property in the district, or may issue bonds secured by and payable from both property taxes and revenues of the district. If bonds are issued payable wholly or partially from property taxes, the board must levy a tax sufficient to pay the principal of and the interest on the bonds, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues that may be available for payment of principal and interest, to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) If bonds payable wholly from revenues are issued, the board shall set and may revise the rates of compensation for water sold and services rendered by the district that are sufficient to pay the expense of operating and maintaining the facilities of the district, to pay the principal of and interest on the bonds when due, and to maintain the reserve and other funds as provided by the resolution authorizing the bonds. If bonds payable partially from revenues are issued, the board shall set and may revise the rates of compensation for water sold and any other services rendered by the district that are sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing the bonds.

(g) From the proceeds from the sale of the bonds, the district may set aside an amount for the payment of interest expected to accrue during construction not to exceed three years, a reserve interest and sinking fund, and other funds provided by the resolution authorizing the bonds or in the trust indenture. Proceeds from the sale of the bonds also may be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which the district is created, including expenses of issuing and selling the bonds.

(h) In the event of a default or a threatened default in the payment of principal of or interest on bonds payable wholly or partially from revenues, a court of competent jurisdiction, on petition of the holders of outstanding bonds, may appoint a receiver with authority to collect and receive all income of the district, except taxes, employ and discharge agents and employees of the district, take charge of funds on hand, except funds received from taxes, unless commingled, and manage the proprietary affairs of the district without consent by the board. The receiver also may be authorized to sell or make contracts for the sale of water or renew those contracts with the approval of the court appointing him. The court may vest the receiver with other powers and duties the court finds necessary for the protection of the bondholders. The resolution authorizing the issuance of the bonds, or the trust indenture securing the bonds, may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute litigation affecting the district's property or income.

SECTION 15. REFUNDING BONDS. (a) The district may issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest on those bonds.

(b) The refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens.

(c) The provisions of this Act relating to the issuance by the district of other bonds, their security, and their approval by the attorney general and the remedies of the bondholders are applicable to refunding bonds.

(d) The comptroller shall register refunding bonds on surrender and cancellation of the bonds to be refunded, but in lieu of surrender and registration, the resolution authorizing their issuance may provide that they shall be sold and that the proceeds together with other funds that may be available be deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay all principal coming due, all interest accruing, and any required redemption premium, on the bonds being refunded to or through any date on which they are subject to redemption before maturity, or through or at their maturity date or dates, respectively, and the comptroller shall register them without concurrent surrender and cancellation of the original bonds and those provisions constitute the making of firm banking arrangements for the discharge and final payment or redemption of the bonds being refunded, or being paid or redeemed.

(e) The district may enter into an escrow or similar agreement with any place of payment, paying agent, or trustee with respect to the safekeeping, investment, reinvestment, administration, and disposition of the deposit, on terms and conditions to which the parties agree. However, deposits may be invested and reinvested only in direct obligations of the United States, including obligations the principal of and interest on which are unconditionally guaranteed by the United States and that may be in book entry form, and shall mature and bear interest payable at the times and in amounts that are sufficient to provide for the scheduled payment or redemption of the revenue obligations. Further, if any of these revenue obligations are scheduled to be paid or redeemed on a date later than the next succeeding scheduled interest payment date, the district must enter into an appropriate escrow or similar agreement. The refunding bonds may be issued without authorization at an election. Refunding bonds also may be issued by the district under any other applicable law.

SECTION 16. TRUST INDENTURE; DEED OF TRUST; MORTGAGE LIEN. (a) Any bonds, including refunding bonds, authorized by this Act that are not payable wholly from property taxes may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers and located either inside or outside the state.

(b) The bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on physical property of the district and all franchises, easements, water rights and appropriation permits, leases and contracts, and all rights appurtenant to that property. The deed of trust or mortgage lien may vest in the trustee power to sell the property for the payment of indebtedness, power to operate the property, and all other powers and authority for the further security of the bonds.

(c) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the property, may contain any provisions prescribed by the board for the security of the bonds and the preservation of the trust estate and may make provision for amendment or modification and the issuance of bonds to replace lost or mutilated bonds. Also, the trust indenture may condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided by this Act, and may make provision for the investment of funds of the district.

(d) The purchaser under a sale under the deed of trust lien, if one is given, is the absolute owner of the property, facilities, and rights purchased and shall have the right to maintain and operate the property and facilities.

SECTION 17. BOND ELECTIONS AND CONDITIONS. (a) Except for refunding bonds, bonds payable wholly or partially from property taxes may not be issued unless authorized at an election by a majority of the qualified voters of the district.

(b) Territory may not be excluded from the district after the issuance of bonds.

(c) Bonds that are not payable wholly or partially from property taxes may be issued without an election.

(d) Bond elections may be called by the board on its own motion.

(e) A resolution calling a bond election must state the time and place or places for holding the election, the purpose for which the bonds are to be issued, the amount of the bonds, the form of the ballot, and other matters considered necessary or advisable by the board.

(f) Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper with general circulation in the district, once a week for two consecutive weeks, with the first publication to be at least 14 days before the date of the election.

(g) The election officers shall return the results of the election to the board and the board shall canvass the result.

(h) Except as provided by this Act, the Texas Election Code applies to elections held under this section.

(i) Before the district issues bonds, it must obtain approval from the Texas Water Commission as provided by Section 51.421, Water Code.

SECTION 18. ATTORNEY GENERAL'S APPROVAL; REGISTRATION BY COMPTROLLER. (a) After bonds, including refunding bonds, are authorized by the district, the bonds and the proceedings relating to their issuance shall be submitted to the attorney general for his examination of their validity.

(b) If the bonds are secured by a pledge of the revenues or proceeds of a contract made between the district and any city, public agency, special district, other political subdivision of the state, or other entity, a copy of the contract and the proceedings of the city, public agency, special district, other political subdivision of the state, or other entity authorizing the contract shall be submitted to the attorney general.

(c) If the attorney general finds that the bonds have been authorized and the contracts have been made in accordance with the constitution and laws of this state, he shall approve the bonds, and the bonds and contracts shall be registered by the comptroller.

(d) After the bonds and contracts, if any, have been approved and registered, they are valid and binding obligations under their terms for all purposes and are incontestable for any reason.

SECTION 19. WATER CONTRACTS. (a) The district may enter into contracts with cities, public agencies, special districts, other political subdivisions of the state, and other entities, including the city of Crane, for supplying water to them.

(b) A contract with the city of Crane shall provide that the city will pay to the district a portion of surplus revenues, if any, from the operation of the city's water system.

(c) The district may contract with any city, public agency, special district, or other political subdivision of the state for the rental or leasing of, or for the operation of the water production, water field, water supply, water filtration or purification, or water supply facilities of, that entity on any consideration to which the district and the entity may agree.

(d) A contract may include the terms and be for the time agreed to by the parties, and the contract may provide that it shall continue in effect until bonds specified in the contract and refunding bonds issued in lieu of those bonds are paid.

(e) The district may contract with the city of Crane for the operation of the district's water facilities by the city of Crane. An election is not required in connection with the contract.

SECTION 20. DEPOSITORY. (a) The board shall designate one or more banks inside or outside the district to serve as the depository for the funds of the district.

(b) The funds of the district shall be deposited in the depository bank or banks, except that bond proceeds and funds pledged to pay bonds, to the extent provided in any resolution or trust indenture authorizing or securing bonds of the district, may be deposited with any other bank or trustee named in the bond resolution or trust indenture. Funds shall be remitted to each paying agent for the repayment of principal of and interest on the bonds.

(c) To the extent that funds in a depository bank or trustee bank are not insured by the Federal Deposit Insurance Corporation, those funds shall be secured in the manner provided by law for the security of funds of a county.

(d) The board may invest district funds as determined by the board, or in the manner provided by a resolution or trust indenture authorizing or securing bonds of the district.

SECTION 21. INVESTMENTS. (a) All bonds of the district are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state.

(b) The bonds are eligible to secure the deposit of any and all public funds of the state and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds are lawful and sufficient security for those deposits to the extent of their value when accompanied by all unmatured coupons appurtenant to them.

SECTION 22. FINDINGS. The accomplishment of the purposes stated in this Act are for the benefit of the people of this state and for the improvement of their property and industries, and the district, in carrying out the purposes of this Act, will be performing an essential public function under the constitution.

SECTION 23. TAX EXEMPTION. The district is not required to pay any tax or assessment on its facilities or any part of its facilities, and the bonds issued under this Act and their transfer and the income from those bonds, including the profits made on the sale of those bonds, are exempt from taxation in this state.

SECTION 24. TAX PROCEDURES. (a) The Crane County tax roll as prepared by the Crane County Tax Appraisal District constitutes the tax rolls of the district.

(b) The district shall enter into a contract with Crane County for the collection of property taxes for the district.

(c) The Crane County auditor shall serve as an advisor to the district, without remuneration, for the preparation of the district's budget and the preparation and levying of the district's property taxes.

SECTION 25. CONFIRMATION ELECTION. Before the district may issue any bonds or other obligations, an election must be held within the district in accordance with Sections 54.026 through 54.029, Water Code, at which the voters confirm the establishment of this district.

SECTION 26. GENERAL AUTHORITY UNDER THIS ACT AND OTHER LAWS. This Act is sufficient authority for the issuance of bonds by the district, the execution of contracts, and conveyances, and the performance of the other acts and procedures authorized under this Act by the district, the city of Crane, public agencies, special districts and other

political subdivisions, without reference to any other law or any restrictions or limitations included in any other law, except as specifically provided by this Act. If bonds are being issued or other action taken under this Act, to the extent of any conflict or inconsistency between this Act and any other law, this Act prevails. However, the district, the city of Crane, public agencies, special districts, and other political subdivisions may exercise the powers under any other laws, that are not in conflict with this Act, to the extent convenient or necessary to carry out any authority provided by this Act.

SECTION 27. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create 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 this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 17, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 2470 on May 26, 1985, by the following vote: Yeas 142, Nays 0, 1 present, not voting; and, pursuant to the provisions of Article XVI, Section 59(d) of the Constitution of Texas, a copy of H.B. No. 2470 was transmitted to the Governor on April 29, 1985, and the recommendation of the Texas Water Commission was filed with the Speaker of the House on May 23, 1985; passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 29, Nays 0.

Approved: June 14, 1985

Effective: Immediately