

CHAPTER 449

H.B. No. 650

An Act relating to the creation, administration, powers, duties, operations, functions, and financing of the Brazosport Water Authority.

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

SECTION 1. CREATION OF AUTHORITY. Pursuant to Article XVI, Section 59, of the Texas Constitution, and on approval at the confirmation election required by Section 6 of this Act, a conservation and reclamation district is created in Brazoria County, Texas, to be known as the Brazosport Water Authority. The authority is a governmental agency and a body politic and corporate.

SECTION 2. DEFINITIONS. In this Act:

- (1) "Authority" means the Brazosport Water Authority.
- (2) "Board" means the board of directors of the authority.
- (3) "Person" means an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal entity.

SECTION 3. BOUNDARIES. The authority may be created to include the cities of Angleton, Clute, Freeport, Jones Creek, Lake Jackson, Brazoria, Oyster Creek, Richwood, and Surfside Beach and the extraterritorial jurisdiction of each of those cities.

SECTION 4. GENERAL POWERS AND DUTIES. (a) The authority may exercise all of the rights, powers, privileges, authority, and functions provided by Subchapter D, Chapter 51, Water Code, excluding Sections 51.121, 51.133, 51.143, 51.158, 51.161 through 51.165, 51.170 through 51.172, 51.184, 51.190, and 51.195. If any provisions of the laws cited in this subsection are in conflict or inconsistent with any provision of this Act, this Act prevails.

(b) The authority may acquire surface and underground water supplies from sources both inside and outside the boundaries of the authority and may conserve, store, transport, treat, purify, distribute, sell, and deliver water to persons, corporations, municipal corporations, political subdivisions of the state, and others, inside and outside the boundaries of the authority.

(c) The authority may make, purchase, construct, lease, or otherwise acquire property, works, facilities, and improvements including existing as well as new works, facilities, and improvements inside or outside the boundaries of the authority, necessary to carry out the rights, powers, and authority granted by this Act and general law.

(d) The authority may enter into contracts with persons, including the cities within the boundaries of the authority and political subdivisions of the state, on terms and conditions the board considers desirable, fair, and advantageous for the performance of its rights, powers, and authority under this Act. The contracts may provide that they will continue in effect until bonds issued by the authority to finance the cost of facilities authorized by this Act, and refunding bonds issued in lieu of those bonds, are paid. Chapter 224, Acts of the 56th Legislature, Regular Session, 1959 (Article 1109j, Vernon's Texas Civil Statutes), applies to any contract between the authority and any city.

(e) The authority may enter into contracts with others for transporting their water and may act jointly with others in the performance of all functions and purposes of the authority.

(f) An election is not required by the authority for approval of contracts to carry out the general powers and duties of the authority.

(g) This Act does not preclude the authority from acquiring water rights under any law or permit.

SECTION 5. 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 Department of Water Resources for similarly situated districts in the region. A program of water conservation means the practices, techniques, and technologies that 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 6. CONFIRMATION ELECTION. (a) Before the authority is created, the creation of the authority must be approved at a confirmation election as provided by this section.

(b) Except as specifically provided by this section, Sections 54.026 through 54.029, Water Code, govern the calling and holding of the confirmation election.

(c) The ballots for the confirmation election shall be printed to provide for voting for or against: "The creation of the Brazosport Water Authority, which does not have the power to levy or collect any tax."

(d) A general law requiring elections to be held on uniform or specified election dates does not apply to an election ordered under this section.

(e) The temporary board shall canvass the returns and declare the results separately for each city voting in the confirmation election.

(f) If a majority of the qualified voters in each of at least three cities listed in Section 3 of this Act approve the creation of the authority at the confirmation election, the authority is created.

(g) For a city to be included as part of the newly created authority, a majority of the qualified voters of that city voting at the confirmation election must approve the creation of the authority.

(h) If a city is included in the authority under this section, the area within the corporate limits and the extraterritorial jurisdiction of the city on the date of the confirmation election is included in the district.

SECTION 7. EXCLUSIONS OF LAND. (a) Before land is excluded from the authority, the board shall call and hold a hearing on exclusion of the land from the authority.

(b) The board has sole authority to initiate the consideration of and make the decision to exclude land or other property from the authority.

SECTION 8. ANNEXATION. (a) A city may be annexed to the authority as provided by this section.

(b) Before the authority may institute annexation proceedings, the board shall provide an opportunity for all interested persons to be heard at two public hearings to be held not more than 20 days or less than 20 days before institution of the annexation proceedings.

(c) At least one public hearing must be held within the city proposed to be annexed if, within 10 days after the publication of the notice required by this section, more than 20 persons who are 18 years of age or older and who reside in the city proposed to be annexed protest in writing to the general manager the institution of annexation proceedings. Each written protest shall include the name, address, and age of each protestor signing.

(d) Notice of the hearings shall be published in a newspaper having general circulation in the area of the authority and in the city proposed to be annexed. The notice for each hearing shall be published at least one time not more than 20 days or less than 10 days before that hearing.

(e) Additional notice shall be given by certified mail to railroad companies then serving the authority if the railroad right-of-way is included in the city to be annexed.

(f) Not later than the 10th day after the date of the last required hearing held under this section, the board shall issue an order stating whether the city should be annexed to the authority. If the board issues an order that the city should be annexed, the board shall call and hold a confirmation election within the boundaries of the city proposed to be annexed to determine whether the city will become a part of the authority.

(g) At an election called under Subsection (f) of this section, the ballots shall be printed to provide for voting for or against the proposition: "The annexation of (*Name of city to be annexed*) to the Brazosport Water Authority, which does not have the power to levy or collect any tax." If a majority of the qualified voters of the city proposed to be annexed voting at the election vote for annexation of the city to the authority, the area within the corporate limits of the city on the date of the confirmation election is annexed to the authority. If a majority of the qualified voters of the city proposed to be annexed voting at the election vote against the annexation of the city to the authority, the city is not annexed to the authority. Except as specifically provided by this section, the confirmation election shall be called and held in the manner provided by Section 6 of this Act for the confirmation election creating the authority.

(h) A city may be annexed to the authority either before or after revenue bonds of the authority are issued, and the boundary change does not affect the validity of any bonds of the authority.

SECTION 9. TAXES; OTHER DISTRICTS. (a) The authority may not impose, levy, assess, or collect taxes on any property, and the authority may not issue bonds or create indebtedness that would be payable directly from ad valorem taxes levied by the authority.

(b) The enactment of this law does not prevent the organization of conservation and reclamation districts, as authorized by Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution, within the boundaries of the authority and does not prevent boundary changes of those districts.

(c) To prevent wasteful duplication, all conservation and reclamation districts created after the effective date of this Act within the boundaries of the authority may contract with the authority for the provision of facilities and services that the authority is authorized to provide under this Act whenever the authority has or in its determination can provide those facilities and services.

SECTION 10. TEMPORARY BOARD. (a) On the effective date of this Act, the following persons constitute the temporary board:

Position 1: A. N. Andrews, the designated appointee from the city of Angleton;

Position 2: Paul Harang, the designated appointee from the city of Brazoria;
 Position 3: Mark McCauley, the designated appointee from the city of Clute;
 Position 4: Vincent L. Scott, the designated appointee from the city of Freeport;
 Position 5: Dickie Coulter, the designated appointee from the village of Jones Creek;
 Position 6: Ralph Buell, the designated appointee from the city of Lake Jackson;
 Position 7: A. A. Callihan, the designated appointee from the village of Oyster Creek;
 Position 8: Gerald Dew, the designated appointee from the city of Richwood; and
 Position 9: Jack Jackson, Jr., the designated appointee from the village of Surfside Beach.

(b) A vacancy in the office of temporary director shall be filled by appointment made by the governing body of the city that the director represented.

(c) The temporary board shall call and hold a confirmation election on the same date in each of the cities listed in Section 3 of this Act and perform other duties necessary to assure the orderly creation of the authority.

SECTION 11. BOARD OF DIRECTORS. (a) On creation of the authority, the board of directors shall manage and control the authority.

(b) On approval of the creation of the authority at the confirmation election called and held under Section 6 of this Act, each person designated as a temporary director under Section 10(a) of this Act who represents a city included in the authority shall become a director of the authority.

(c) The board members shall meet and organize as soon as practicable after the creation of the district takes effect and shall file their official bonds and subscribe to the constitutional oath of office.

(d) Vacancies on the board shall be filled by appointment of the governing body of the city represented by the vacant position.

(e) For each new city annexed to the authority, the authority shall add a member to the board to represent that city and to be appointed by the governing body of that city.

(f) The board shall assign position numbers to each member of the board in continuing sequence.

(g) Each initial member under Subsection (b) of this section and each new member added on annexation of a city shall serve until the expiration of his term as provided by Subsection (h) of this section, and his successors shall serve for two-year terms.

(h) Except for the initial members of the board and new members added to the board on annexation of a city, members of the board shall serve for two years with persons serving in even-numbered positions serving until September 1 of even-numbered years and persons serving in odd-numbered positions serving until September 1 of odd-numbered years.

(i) A director is not entitled to compensation for his service on the board.

(j) Each year after the appointment of directors, the board shall elect a president, vice-president, secretary, and any other officers the board considers necessary. The president shall preside over meetings of the board, and in his absence, the vice-president shall preside. The president, vice-president, secretary, and other officers shall perform the duties and may exercise the powers specifically given them by this Act and orders of the board.

(k) At the direction of the board, the general manager of the authority may execute all contracts entered into by the board on behalf of the authority.

(l) At the first organizational meeting of the board, the board shall adopt bylaws, which may be amended as necessary, consistent with this Act for the management and operation of this authority.

(m) A majority of the directors constitutes a quorum for transaction of business, and a concurrence of a majority of those directors present and voting is sufficient in all matters relating to the business of the authority, including the authorization of contracts for construction work, purchase of existing facilities, and matters relating to construction work.

SECTION 12. GENERAL MANAGER. (a) The general manager shall be appointed by the president of the board and confirmed by a majority of the members of the board and may be removed by a majority vote of the members of the board.

(b) The general manager is the chief executive officer of the authority. Under policies established by the board, the general manager is responsible to the board for the following duties:

- (1) administrating the orders of the board;
- (2) keeping the authority's records, including minutes of the board's meetings;
- (3) coordinating with state, federal, and local agencies;
- (4) developing plans and programs for the board's approval;
- (5) formulating a budget for the authority's fiscal year subject to the approval of the board;

- (6) hiring, supervising, training, and discharging the authority's employees;
 - (7) contracting for or retaining technical, scientific, legal, fiscal, and other professional services; and
 - (8) performing any other duties assigned to him by the board.
- (c) The general manager and each employee of the authority charged with the collection, custody, or payment of money of the authority shall execute a bond approved by the board as to form, amount, and surety. The authority shall pay the premiums on the general manager's and the employees' bonds under this section.
- (d) The board may contract with one of the cities within the boundaries of the authority or with other outside sources for the services of a general manager or other employees of the authority.

SECTION 13. GENERAL FINANCIAL AUTHORITY. (a) The authority shall reimburse the cities within its boundaries for all reasonable expenses incurred in connection with the creation and establishment of the authority, including publication costs, legal fees, engineering fees, charges for the services of other consultants, and other incidental costs.

(b) The authority may borrow money from time to time to carry out any of the powers granted to the authority under this Act by:

(1) issuing and selling negotiable or nonnegotiable notes and providing the terms and conditions of those notes and rights of the holders of those notes payable from and secured by the sources described in this Act;

(2) issuing and selling revenue bonds without the necessity of an election and providing the terms and conditions of those bonds and the rights of the holders of those bonds payable from and secured by the sources described in this Act; and

(3) delivering those notes and bonds to the United States or any agency or instrumentality of the United States or to the State of Texas or any agency or instrumentality of the State of Texas when it is determined by the board to be in the best interest of the authority.

(c) The authority may invest any money held in any sinking fund, reserve fund, or other fund or any money not required for immediate use or disbursement in securities as provided by this Act.

(d) The authority may apply for, accept, and administer grants, loans, and other assistance from the United States and any agency or instrumentality of this state or any other state to carry out the purpose of this Act and may enter into any agreement in relation to those grants, loans, or other assistance that is not in conflict with the constitution of this state.

(e) The authority may:

(1) fix, charge, alter, and collect reasonable rentals, rates, fees, and other charges for the use of any facilities or for any services rendered by the authority;

(2) provide for the imposition of reasonable penalties for any rentals, rates, fees, and charges that are delinquent; and

(3) comply with any duty to fix, charge, alter, and collect the rentals, rates, fees, and charges sufficient to fulfill any agreement with the holders of bonds or notes issued under this Act.

SECTION 14. BONDS AND NOTES. (a) Bonds and notes of the authority shall be authorized by resolution of the board, and at least a majority of the board members must concur in a bond resolution.

(b) The bonds and notes shall:

(1) be in the form, have the characteristics, and bear the designation and date or dates provided in the resolution;

(2) mature at the time or times whether serially, term, or otherwise not more than 40 years from their date of issuance;

(3) bear interest at the rate or rates, be payable annually, semiannually, quarterly, or otherwise, and be in the denominations provided by the resolution;

(4) be registrable as to principal only or as to both principal and interest;

(5) provide for the successive exchange of bonds or notes of one denomination for bonds or notes of other denominations; and

(6) be executed in the manner, payable at the place or places inside or outside the state, and sold for the price or prices provided by the resolution.

(c) Bonds or notes may be issued from time to time in one or more installments.

(d) The proceeds from the sale of bonds or notes shall be deposited in the authority's depository and shall be paid out pursuant to the terms and conditions agreed on by the authority and the purchasers.

(e) Bonds or notes and any coupons appurtenant to the bonds or notes issued under this Act shall be signed by the president or vice-president of the board, be attested by the board's secretary, and bear the seal of the authority.

(f) The resolution authorizing the issuance of any installment or any series of bonds or notes may provide the extent to which the authority, in executing the bonds or notes and appurtenant coupons, may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. If any officer whose manual or facsimile signature appears on a bond or note or any coupon ceases to be an officer before the bond or note is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

(g) Neither the officers or members of the authority nor anyone executing the bonds, notes, or coupons for and on behalf of the authority are liable personally for the bonds, notes, or coupons of the authority by reason of their participation in the issuance of the bonds, notes, or coupons.

(h) The bonds or notes of the authority may be secured by and payable from pledges of all or any part of the revenues, receipts, or assets of the authority or the revenues of any one or more leases or other contracts of the authority, and all such security shall be specified by the resolution or in the trust indenture or other instrument securing the bonds or notes. The pledge may reserve the right, under conditions specified in it, to issue additional bonds or notes that will be on a parity with or subordinate to the bonds or notes being issued.

(i) A pledge or security instrument made by the authority is valid and binding from the time when it is made. The revenues, receipts, or assets pledged and entrusted and received by the authority shall immediately be subject to the lien of the pledge or security instrument without any physical delivery or further act. The lien of the pledge or security instrument is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. It is not necessary for the resolution or any security instrument or other instrument by which a pledge or security interest is created to be recorded or filed, and compliance with any provision of any other law is not required in order to perfect the pledge of other security interest.

(j) A resolution authorizing bonds or notes or a trust indenture securing bonds or notes which are part of the agreement with the holders may contain provisions:

(1) pledging all or any designated part of the revenues and receipts of the authority received or to be received from the planning, financing, ownership, or operation of, leasing, or other actions in connection with any specified facilities or assets to secure the payment of the bonds or notes;

(2) pledging all or any part of assets of the authority, including any obligation acquired by the authority, to secure the payment of the bonds or notes;

(3) relating to the use and disposition of rentals, rates, fees, and other charges made or received by the authority;

(4) pledging to fix, charge, alter, and collect rents, rates, fees, and other charges with respect to any designated facilities or assets that will be sufficient to produce revenues adequate to pay all expenses necessary to the operation and maintenance of the designated facilities or assets of the authority, to pay the principal of and interest on all bonds or notes issued and payable out of the revenues and receipts when and as they become due and payable, to pay all sinking fund and reserve or other fund payments agreed to be made with respect to any of those bonds or notes payable out of the revenues and receipts when and as they become due and payable, and to fulfill the terms of any agreement made with the holders of the bonds or notes and with any person in their behalf;

(5) relating to setting aside reserves or sinking funds and regulation and disposition of those reserves and sinking funds;

(6) providing limitations on the purpose to which the proceeds from the sale of the bonds or notes may be applied and pledging the proceeds to secure the payment of the bonds or notes;

(7) providing limitations on the issuance of additional bonds and on the refunding of outstanding bonds or notes or other bonds or notes;

(8) relating to the acquisition, construction, improvement, operation, extension, enlargement, maintenance, and repair of any facilities or assets and stating the duties of the authority with reference to facilities and assets;

(9) providing the procedure, if any, by which the terms of any agreement with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of the bonds or notes are required to give consent to, and the manner in which the consent may be given;

(10) providing limitations on the amount of money to be spent by the authority for administrative or other expenses;

(11) vesting in a trustee or other fiduciary the property, rights, powers, and duties in trust as the authority determines, which may include any of the rights, powers, and duties of the trustee appointed by the bondholders or noteholders under this Act, and abrogating the right of the bondholders or noteholders to appoint a trustee under this Act or limiting the rights, powers, and duties of the trustee;

(12) designating the management, operation, and control of specified facilities or assets of the authority or trust indenture and specifying the terms of office of the board of trustees, their powers and duties, the manner of exercising their powers and duties, the appointment of successors, and all matters pertaining to their organization and duties; and

(13) relating to any other matters that in any way affect the security or protection of the bonds or notes or the bondholders or noteholders.

(k) The resolution authorizing the issuance of the bonds or notes or the trust indenture or other instrument securing them may provide that in the event of a default or, under the conditions stated in those instruments, a threatened default in the payment of principal of or interest on bonds or notes, any court of competent jurisdiction may, on petition of the holders of outstanding bonds or notes, appoint a receiver with authority to collect and receive pledged revenues and receipts, and the instruments may limit or qualify the rights of less than all of the holders of the outstanding bonds or notes payable from the same source to institute or prosecute any litigation affecting the authority's properties or revenues.

(l) Bonds or notes, including refunding bonds, authorized by this Act may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers located either inside or outside the state. The bonds or notes, within the discretion of the authority, may be additionally secured by a mortgage or deed of trust lien or security interest on facilities or assets of the authority and all real property, franchises, easements, leases, or assets of the authority and all real property, franchises, easements, leases, and contracts and all rights appurtenant to the properties, vesting in the trustee power to sell the facilities or assets for the payment of the indebtedness, power to operate the facilities or assets, and all other authority for the further security of the bonds or notes. The trust indenture, regardless of the mortgage of the deed of trust lien or security interest in the facilities or assets, may contain any provisions prescribed by the authority for the security of the bonds or notes and the preservation of the trust estate, may make provision for amendment or modification of them, may condition the right to spend the authority's money or sell the authority's facilities or assets on approval of a registered professional engineer selected as provided in the trust indenture, and may make any other provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as may be reasonable and proper and not in violation of the law. The resolution or trust indenture may also contain provisions governing the issuance of bonds and notes to replace lost, stolen, or mutilated bonds or notes.

(m) The authority may direct the investment of money in the funds created by the resolutions, trust indentures, or other instruments securing the bonds or notes. From the proceeds from the sale of bonds or notes, the authority may set aside amounts for payments into the interest and sinking fund until completion of construction and until adequate revenues and receipts are available from operations to pay principal and interest and amounts for payments into reserve funds. Provision for this may be made in the resolution authorizing the bonds, notes, or the trust indenture or other instrument securing the bonds or notes. Proceeds from the sale of the bonds or notes may be used for the payment of all expenses of issuing and selling the bonds or notes.

(n) The proceeds from the sale of the bonds and notes and money in any funds created in connection with the bonds or notes may be invested in:

(1) direct or indirect obligations of or obligations unconditionally guaranteed by the United States maturing in the manner that may be specified by the resolution authorizing the bonds or notes or the trust indenture or other instrument securing the bonds or notes; or

(2) certificates of deposit of any bank or trust company whose deposits are secured by the obligations described in Subdivision (1) of this subsection.

(o) The authority may provide by resolution for the issuance of refunding bonds or notes to refund outstanding bonds or notes issued under this Act and their accrued interest. The authority may sell the refunding bonds or notes and use the proceeds to retire the outstanding bonds or notes issued under this Act, or the authority may exchange the refunding bonds or notes for the outstanding bonds or notes. The issuance of the refunding bonds or notes, their maturity, the rights of the bondholders, and the duties of the authority with respect to refunding bonds or notes are governed by the provisions of this Act relating to original bonds or notes to the extent that they may be made applicable. The authority may also refund any bonds under any general law of the state.

(p) After bonds and notes, including refunding bonds and notes, are authorized by the authority, the bonds and notes and the record relating to their issuance shall be submitted to the attorney general for his examination as to their validity. If the bonds and notes recite that they are secured by a pledge of the revenues and receipts of a lease or leases or other contract or contracts previously made between the authority and any person, the leases and contracts may also be submitted to the attorney general. If the bonds or notes have been validly authorized and if the leases or contracts have been made in accordance with the constitution and laws of this

state, the attorney general shall approve the bonds or notes and the leases or contracts, and the bonds or notes shall be registered by the comptroller of public accounts.

(q) After the bonds or notes, and the leases or other contracts, if any, have been submitted, have been approved by the attorney general, and have been registered by the comptroller of public accounts and delivered to the purchasers, the bonds and notes and the leases and contracts are incontestable for any cause.

(r) Payment of bonds and notes according to the term and tenor, performance of agreements with the holders of bonds or notes or any person in their behalf, and performance of official duties prescribed by this Act in connection with any bonds or notes may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

(s) Bonds issued under this Act and coupons, if any, representing interest on those bonds, when delivered, are considered to be a "security" within the meaning of Chapter 8 of the Business & Commerce Code.

(t) Bonds and notes issued under this Act, the interest on the bonds and notes, and the profit from the sale of the bonds and notes are exempt from taxation by the state or by any municipal corporation, county, or other political subdivision or taxing district of the state.

(u) Bonds and notes issued under this Act, together with the interest on them, shall be secured by and payable only from the sources provided by this Act.

(v) This Act shall not be construed to authorize the giving or lending of the credit of the state or to be a pledge of the credit of the state for payment of any bonds or notes issued under this Act, and the purchasers and holders of any bonds or notes shall never have the right to demand payment from any revenues, receipts, or assets of the authority except those pledged to the payment of bonds or notes. This state, however, pledges and agrees with the holders of any bonds issued under this Act that it will not limit or alter the rights vested in the authority to fulfill the terms of any agreements with the holders of the bonds or notes, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceedings by or on behalf of the holders. The authority may include this pledge and agreement of the state in any agreements it makes with the holders of the bonds or notes.

SECTION 15. FACILITIES; EMINENT DOMAIN. (a) The authority may construct, lay, maintain, and operate canals, laterals, ditches, levees, pipelines, bridges, and all other facilities for the transportation, treatment, purification, and distribution of water together with service roads and all other facilities incidental to and designated for use in connection with the transportation, treatment, purification, and distribution of water under, along, and across any railroad, railroad right-of-way, canal, stream, pipeline, utility line, streets or alleys in cities, subject to reasonable regulation by the cities, and public roads and highways, but the crossing shall not impair the uses of the facilities crossed, and the facilities shall be promptly restored to their former condition of usefulness.

(b) The authority may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property located inside or outside the authority if the property interest is necessary for the exercise of the powers conferred by this chapter. The authority must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the authority is not required to deposit with the trial court money or a bond as provided by Section 21.021(a), Property Code.

(c) If the authority, in the exercise of the power of eminent domain or power of relocation or any other power granted under this Act, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of or altering the construction of any highway, railroad, electric transmission or distribution line, telegraph or telephone properties and facilities, or pipeline, the authority shall accomplish this necessary relocation, raising, lowering, rerouting, changing of grade, or alteration of construction at the sole expense of the authority. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, change in grade, or alteration of construction in providing comparable replacement facilities, after deducting from the actual cost the net salvage value derived from the old facility.

(d) The authority is not required to give bond for appeal or bond for costs in any condemnation suit or any other suit to which it may be a party.

SECTION 16. DEPOSITORY. The board shall select any bank or banks in the state to act as depository or depositories for the funds of the authority. So long as Chapter 179, Acts of the 60th Legislature, Regular Session, 1967 (Article 2529c, Vernon's Texas Civil Statutes), and Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), are observed, any director of the authority may be a shareholder in a depository bank or banks.

SECTION 17. AUDIT. (a) A complete system of accounts shall be kept by the authority and an audit of its affairs for each fiscal year shall be prepared by a certified public accountant or a firm of certified public accountants of recognized integrity and ability.

(b) The fiscal year of the authority shall be from October 1 to September 30 of the following year, unless changed by the board.

(c) A written report of the audit shall be delivered to each member of the board not later than 90 days after the close of each fiscal year. A copy of the audit report shall be delivered on request to the holder or holders of at least 25 percent of the then outstanding bonds of the authority. At least one copy of the audit shall be delivered to the chief administrator of each city, and at least 10 additional copies of the audit shall be delivered to the office of the authority.

(d) One copy of the audit shall be kept on file in the authority office and shall constitute a public record open to inspection by any interested person or persons during normal office hours.

(e) The cost of the audit shall be paid by the authority.

SECTION 18. AUTHORITY OFFICE. The board shall designate and establish a district office and meeting place within the district. The meeting place shall be a public place and open to the public to attend any meeting of the board.

SECTION 19. NOTES AND BONDS AS INVESTMENTS AND SECURITY. All bonds of the authority are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, counties, school districts, and political subdivisions of the state and public agencies of the state. The bonds are eligible to secure the deposit of funds of the state or of a city, county, school district, or any other agency or political subdivision of the state. The bonds are lawful and sufficient security for those deposits to the extent of their face value.

SECTION 20. 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 April 18, 1985, by the following vote: Yeas 139, Nays 0, 2 present, not voting; House concurred in Senate amendments to H.B. No. 650 on May 17, 1985, by the following vote: Yeas 131, Nays 1, 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. 650 was transmitted to the Governor on February 1, 1985, and the recommendation of the Texas Water Commission was filed with the Speaker of the House on February 20, 1985; passed by the Senate, with amendments, on May 15, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 11, 1985

Effective: Immediately