

CHAPTER 167

S.B. No. 1315

An Act relating to the boundaries, powers, and duties of and the authority of certain public agencies and persons to contract with the West Central Texas Municipal Water District; amending Chapter 66, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-162, Vernon's Texas Civil Statutes), by amending Sections 2, 9, and 10 and by adding Section 8a.

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

SECTION 1. Section 2, Chapter 66, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-162, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. *The boundaries of the District shall include all of the territory within the boundaries of the cities of Abilene, Albany, Anson, and Breckenridge on January 1, 1985. A defect in the definition of the boundaries of any of those cities does not affect the validity of the District or any of its powers or duties. The legislature finds that all territory within the boundaries of the District is and will be benefited by the present and contemplated improvements, works, and facilities of the District. The District may only annex territories in accordance with Section 5 of this Act. [The District shall comprise all of the territory which was contained within the cities of Abilene, as said City is defined for tax and general purposes, Anson, Albany and Breckenridge on February 1, 1955, provided however, that no defect in the definition of the boundaries of any of said cities or in any past or future proceedings for the annexation of territory to any of said cities shall affect the validity of the District hereby created or any of its powers or duties. It is hereby found that all of the land thus included in said District will be benefited by the exercise of the powers conferred by this Act.]*"

SECTION 2. Chapter 66, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-162, Vernon's Texas Civil Statutes), is amended by adding a new Section 8a to read as follows:

"Section 8a. (a) *In this section, 'person' means:*

"(1) *any individual, partnership, corporation, or other private entity; and*

"(2) *any public agency, including any authority, district, city, town, or other political subdivision, joint board, or other public agency created and operating under the laws of this State.*

"(b) *The District has the additional specific powers provided by this section.*

“(c) The District may acquire, construct, finance, or otherwise provide any kind or type of water facilities, water pollution control facilities, waste disposal facilities, and air pollution control facilities in any area:

“(1) within the Clear Fork of the Brazos River Watershed and its tributaries;

“(2) within Jones, Shackelford, Stephens, and Taylor counties; and

“(3) inside or outside the boundaries of the areas described in Subdivisions (1) and (2) of this subsection with respect to water facilities designed primarily to serve inhabitants within those areas except as otherwise limited by this section.

“(d) The District may exercise all powers granted to a district or a river authority created and operating under Article XVI, Section 59, of the Texas Constitution, by the Clean Air Financing Act (Article 4477-5a, Vernon’s Texas Civil Statutes), Chapter 30, Water Code, Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon’s Texas Civil Statutes), and any other general law relating to the powers and facilities provided by this subsection and Subsection (c) of this section.

“(e) If the District creates a nonprofit corporation to act on its behalf under the Development Corporation Act of 1979 (Article 5190.6, Vernon’s Texas Civil Statutes), the corporation may exercise any of its powers with respect to projects within the area described by Subsection (c) of this section.

“(f) The District and any persons may contract, on terms and conditions to which the parties may agree, with respect to any power, function, or duty of the District, including those granted in this section. The District and those persons who are parties to the contract may execute appropriate documents and instruments in connection with the contract.

“(g) The District may issue bonds with respect to any of its powers including those powers granted by this section in the manner provided by Section 12 of this Act. Also, the District may issue bonds to provide funds to enable the District to pay for costs of engineering design and studies, surveying, title research, appraisals, options on real or personal property, and other related activities in connection with planning and implementing various proposed projects or improvements and to provide funds to operate and maintain any facilities.

“(h) The District may invest its funds, including bond proceeds, in any manner or in any securities determined by its Board of Directors.

“(i) In addition to all other powers granted by this Act or by any other law, the District may undertake and carry out any activities, enter into contracts, loan agreements, leases, or installment sales agreements, acquire, purchase, construct, own, operate, maintain, repair, improve, or extend, and loan, lease, sell, or otherwise dispose of qualifying works, improvements, facilities, plants, buildings, structures, equipment, appliances, real and personal property or any interest in that property, and money or bond proceeds, at any place or location within the area defined in Subsection (c) of this section, or at any other place or location outside that area with respect to facilities that are designed primarily to serve inhabitants within that area on the terms and conditions, including loan payments, rentals, sale price, or installment sale payments, to which the parties may agree. To qualify under this subsection works, improvements, facilities, plants, buildings, structures, equipment, appliances, real and personal property or any interest in that property, or money or bond proceeds must be incident, helpful, or necessary:

“(1) to provide for the development, drilling, control, storage, preservation, transmission, treatment, distribution, and use of groundwater, storm water, floodwater, and the water of rivers and streams for municipal, domestic, electric energy or power, industrial, irrigation, oil flooding, mining, agricultural, commercial, flood control, and all other beneficial purposes;

“(2) to supply water for municipal, domestic, electric energy or power, industrial, irrigation, oil flooding, mining, agricultural, commercial, and all other beneficial uses and purposes;

“(3) to collect, transport, process, treat, dispose of, and control all waste, including all municipal, domestic, industrial, agricultural, recreational, and other waste, whether in fluid, solid, or composite state;

“(4) to control, abate, or reduce all types of pollution, including air pollution and water pollution;

“(5) to reclaim and provide drainage and drainage systems for land;

“(6) to establish or otherwise provide for public parks and recreation facilities; and

“(7) to facilitate the carrying out of any power, duty, or function of the District.

“(j) The legislature finds that the purposes listed in Subsection (i) of this section are for the conservation and development of the natural resources of the State within the meaning of Article XVI, Section 59, of the Texas Constitution.

“(k) The District is considered to be a district and a river authority for the purposes of Chapter 30, Water Code, the Clean Air Financing Act (Article 4477-5a, Vernon’s Texas Civil Statutes), and the Solid Waste Resource Recovery Financing Act (Article 4477-7A, Vernon’s Texas Civil Statutes), except if there is a conflict between a provision of one of those laws and this Act, this Act prevails.

“(l) Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon’s Texas Civil Statutes), applies to the District.

“(m) Any person may contract with the District in any manner authorized by this Act, Chapter 30, Water Code, the Clean Air Financing Act (Article 4477-5a, Vernon’s Texas Civil Statutes), and the Solid Waste Resource Recovery Act (Article 4477-7A, Vernon’s Texas Civil Statutes), with respect to water, waste, pollution control, or any other facilities and services provided by the District. A public agency additionally may contract with the District and may determine, agree, and pledge that all or any part of its payments under that contract are payable from the source described in Subsection (c), Section 30.030, Water Code, subject only to the authorization of the contract, pledge, and payments (by a majority vote of the governing body of that public agency). A public agency also may use and pledge any other available revenues or resources for and to the payment of amounts due under those contracts, as an additional source or sources of payment, or as the sole source or sources of payment and may covenant in that respect to assure the availability of the revenues and resources when required. If bonds issued by the District recite that they are secured by a pledge of revenues from a contract, a copy of that contract and the proceedings relating to that contract shall be submitted to the Attorney General along with the bonds under Section 16 of this Act. If the Attorney General finds that those bonds have been authorized and the contract or contracts have been entered into in accordance with law, he shall approve the bonds and the contract or contracts. After approval of the bonds and each contract by the Attorney General, they are incontestable in any court or other forum for any reason and are valid and binding in accordance with their terms and provisions for all purposes.

“(n) Each public agency may fix, charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided by any utility operated by it, or provided pursuant to or in connection with any contract with the District, from its inhabitants or from any users or beneficiaries of the utility, services, or facilities, including specifically water charges, sewage charges, waste disposal system fees and charges including garbage collection or handling fees, and other fees or charges. Each public agency may use and pledge the fees to make payments to the District required under the contract and may covenant to do so in amounts sufficient to make all or any part of the payments to the District when due. If the parties agree in the contract, these payments constitute an expense of operation of any facilities or utility operated by the public agency, provided no agreement may be made that would violate the United States or Texas constitutions.

“(o) This section is wholly sufficient authority within itself for the exercise of the powers, the issuance of the bonds, the execution of contracts, and the performance of the other acts and procedures authorized by it, by the District and all persons, including specifically public agencies, without reference to any other law or any restrictions or limitations contained in any other law, except as specifically provided. To the extent of any conflict or inconsistency between this section and any other law, including any home-rule city charter, this section prevails and controls. The District and all persons, including specifically public agencies, are entitled to use any other law, not in conflict with this section, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.

“(p) This section does not compel any person, including any public agency, to secure water, sewer service, or any other service from the District, except under a voluntarily executed contract.

“(q) Special facility projects to acquire and construct separate projects on behalf of a contracting party, which projects are to be self-liquidating and not constitute a part of the District’s system, may be undertaken only after Board approval, and none of the District’s assets may be encumbered for those special facility projects other than those facilities that are a part of the special facility project, and none of a member city’s assets may be encumbered for those special facility projects unless the encumbrance is approved by the governing body of the city.”

SECTION 3. Sections 9 and 10, Chapter 66, Acts of the 54th Legislature, Regular Session, 1955, are amended to read as follows:

“Section 9. The District is empowered to acquire land and to construct, lease or otherwise acquire all works, plants and other facilities necessary or useful for the purpose of exercising the powers and purposes of the District including diverting, further impounding or storing water, and developing underground sources of water, processing such water and transporting it to cities and others for municipal, domestic, industrial and mining purposes inside or outside the boundaries of the District [within the Clear Fork of the Brazos River Watershed and its tributaries]. Subject to the terms of any deed of trust issued by the District, the District may sell, trade or otherwise dispose of any real or personal property deemed by the Board of Directors not to be needed for District purposes. [The District is not authorized to develop or otherwise acquire underground sources of water.]

“Section 10. For the purpose of carrying out any power or authority conferred by this Act the District shall have the right to acquire the fee simple title to land and other property and

easements *inside or outside the boundaries of the District* [~~within the Counties of Taylor, Jones, Shackelford and Stephens~~] (including land needed for the reservoir and dam and flood easements above the probable high water line around any such reservoirs) by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to the eminent domain. This District is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors.”

SECTION 4. 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 the Senate on April 22, 1985, by the following vote: Yeas 28, Nays 0; passed the House on May 9, 1985, by the following vote: Yeas 145, Nays 0, one present not voting.

Approved: May 24, 1985

Effective: Immediately