

CHAPTER 568

S.B. No. 1372

AN ACT

relating to purchases and contracts of the Jefferson County Drainage District No. 7 and the authority of the manager of the district to hire and terminate employees of the district.

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

SECTION 1. Section 3, Chapter 34, Acts of the 57th Legislature, 3rd Called Session, 1962, as last amended by Chapter 21, Acts of the 71st Legislature, 1st Called Session, 1989, is amended to read as follows:

Sec. 3. Said Jefferson County Drainage District No. 7 with the boundaries set forth in Section 1 of this Act (hereinafter sometimes referred to as the "District") is hereby created and established as a District pursuant to and under the provisions of Section 59 of Article XVI, Constitution of Texas, and in addition to the powers and rights as given under General Law pertaining to drainage districts that are not in conflict with the provisions of this Act, shall be authorized to exercise the following powers, privileges and functions:

(a) To provide protection to lands and properties within the boundaries of the District against flood and overflow from tide waters, rainwaters and other waters, and to construct,

operate and maintain drainage and seawall structures and facilities to carry out these purposes.

(b) To construct, extend, improve, operate, maintain, reconstruct, or cause to be constructed, extended, improved and operated canals, ditches, laterals, drains, levees, seawalls, bridges, culverts, pump stations, and other structures necessary or convenient to the exercise of its powers, rights, privileges and functions.

(c) To cooperate and contract with any department or agency of the State of Texas, or any political subdivision thereof, or any municipal corporation to carry out any purpose for which the District is organized, and to assist the municipalities that are located wholly or in part within the boundaries of the District by providing such outfall drainage facilities and seawall protection deemed advisable by the District, provided that this shall not be construed to deprive such municipalities of their right, privilege and obligation to carry out the normal drainage functions of a municipality.

(d) To acquire within the District land in fee simple title, easements, right-of-ways, and any other character of property needed to carry on the work of the District by way of gift, devise, purchase, leasehold or condemnation, within the District or outside the District if the land outside the District sought to be condemned is for drainage ditches and drainage canals only and is adjacent to the District. The right of eminent domain is hereby expressly conferred on said District and the procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending appeal and all other procedure prescribed in Title 52 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended, shall apply to said District except as otherwise provided herein.

(e) To overflow or inundate any public lands and public property; to require the relocation of roads, highways and bridges, and to construct culverts, ditches, levees, canals, seawalls and other facilities over, across or along any public streams, roads or highways.

(f) To sell, trade or otherwise dispose of land or other property or rights therein when the same are no longer needed in carrying out the functions of the District.

(g) To cooperate with and contract with the United States of America or with any of its agencies now existing, or which may be created hereafter, for grants, loans, or advancements to carry out any of the powers or to further any of the purposes of this Act and to receive and use said moneys for such purposes; or to contribute to the United States of America or any of its agencies in connection with any project undertaken by it affecting or relating to drainage or protection from tides and flood waters.

(h) All canals, drains, ditches and levees made, cleaned or constructed by the District, shall be public property of such District; and every person owning land and every subdivision created within the District shall have the right to drain into one or more of such public drains at their own expense, provided before such drains are connected to the District's drainage system approval must first be had from the Commissioners of the District.

(i) To employ managerial, engineering, fiscal agents, technical, legal and other personnel deemed necessary to the conduct of the District's affairs, including the issuance and sale of bonds and related matters; and to formulate rules and regulations governing hours of work, vacations, holidays, sick leave and rate of compensation for such personnel. To fix the amount of surety bonds of all employees of the District acting in fiduciary matters.

(j) To purchase necessary land, buildings, supplies, materials and equipment and machinery necessary to carry out the functions of the District. ~~[In the case of purchases or contracts not to exceed the sum of \$5,000, such purchases or contracts shall be made upon requisitions signed by a majority of the District's Commissioners, which requisitions shall be executed at least in triplicate, one copy to be delivered to the person, firm or corporation from whom the purchase is made, one copy to be delivered to the County Auditor, and one to remain on file with the Commissioners.]~~ All purchases and contracts ~~[of over \$5,000 shall require the concurrence of a majority of the Commission and]~~ shall ~~[otherwise]~~ be made in accordance with ~~Section 50.061, Water Code.~~ ~~[the requirements of the General Laws of the State of Texas pertaining to drainage districts and the rules, regulations and formalities of the County of Jefferson pertaining to purchases and contracts. The District must ask for bids and receive at least three bids before making a purchase or awarding a contract that exceeds \$5,000,~~

~~unless the Commissioners adopt a resolution declaring an emergency. If the Commissioners declare an emergency, the competitive bidding requirements of this section and of the general law of this state do not apply to any purchase and contract made by the District in connection with the declared emergency. Bids for purchases and contracts are governed by the procedures in Chapter 252, Local Government Code, to the extent those procedures can be made applicable.]~~

(k) To disburse moneys of the District on checks, drafts, orders or other instruments signed by a majority of the District's Commissioners and the manager or assistant manager of the District with the approval of the Auditor or Assistant Auditor of Jefferson County upon his ascertaining that there are available funds and that the amount so paid by the said check, draft or instrument is in accordance with the authorizing instrument.

(l) To provide for and administer a retirement, disability and death compensation fund for the employees of the District as the governing body of the District may from time to time determine; and the governing body of said District shall have power and authority to adopt such plan or plans to effectuate the purpose of this Act, including such forms of insurance or annuities, (either or both), all as may be determined advisable by the governing body of the District, or, if they so choose, to become a part of the county retirement system of Jefferson County; providing that said governing body of the District shall have the power and authority from time to time, after notice to their employees and the hearing thereon, to change any such plan, rule or regulation. This Section is enacted in anticipation of the adoption of pending constitutional amendment and laws.

All funds provided from the compensation of such employees, and such funds provided by the District from its operating and maintenance fund, for such retirement, disability and death compensation fund, after they are received by the District, shall be invested in either or both of the following ways:

(1) In bonds of the United States, the State of Texas, or county or city, or other governmental subdivisions of this state, or in bonds issued by any agency of the United States government, the payment of the principal and interest on which is guaranteed by the United States, provided that a sufficient amount of said fund shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of said fund, such amounts of funds to be kept on hand to be determined by the governing body of the District; or

(2) In such life insurance policies, endowment or annuity contracts or interest-bearing certificates of Legal Reserve Life Insurance Companies or companies authorized to write such contracts in Texas, as may be determined by the governing body of the District; providing that said governing body of the District shall have power and authority, from time to time, as they may deem advisable, to change from one of said ways of investment to the other, or any combination of the two.

(m) To include hospitalization, medical and accident insurance, including workmen's compensation insurance, for their employees as part of the compensation currently paid to such employees, all as may be provided for in any plan, rule or regulation from time to time made by said Commissioners, or otherwise as said Commissioners may determine, provided that said Commissioners shall have power and authority from time to time to change any such plan, rule or regulation. This Section is enacted in anticipation of the adoption of pending constitutional amendment and laws.

(n) To do any and all other acts or things necessary or proper to carry into effect the purposes for which the District is organized.

SECTION 2. Chapter 34, Acts of the 57th Legislature, 3rd Called Session, 1962, as last amended by Chapter 21, Acts of the 71st Legislature, 1st Called Session, 1989, is amended by adding Section 4b to read as follows:

*Sec. 4b. (a) The Commissioners shall hire a manager to perform District management and control duties delegated by the Commission. The manager serves at the will of the Commission.*

*(b) The District's manager may hire or terminate District employees as the manager determines necessary for the efficient operation of the District. A decision of the manager related to the hiring or termination of an employee is not reviewable by the Commission.*

SECTION 3. The change in law made by this Act applies only to a contract for which the initial notice soliciting bids is published or posted or other initial offer is made on or after the effective date of this Act. A contract for which the initial notice was published or posted or other initial offer made before that date is governed by the law in effect at the time the notice was published or posted, and the former law is continued in effect for that purpose.

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 May 7, 1993: Yeas 30, Nays 0; passed the House on May 26, 1993, by a non-record vote.

Approved June 11, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.