

CHAPTER 55

S.B. No. 504

AN ACT

relating to sale of water by the Lower Colorado River Authority.

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

SECTION 1. Section 2, Chapter 7, Acts of the 43rd Legislature, 4th Called Session, 1934, is amended to read as follows:

Sec. 2. Except as expressly limited by this Act, the district shall have and is hereby authorized to exercise all powers, rights, privileges and functions conferred by general law

upon any district or districts created pursuant to Section 59 of Article 16 of the Constitution of the State of Texas. Without limitation of the generality of the foregoing, the district shall have and is hereby authorized to exercise the following powers, rights, privileges and functions:

(a) to control, store and preserve, within the boundaries of the district, the waters of the Colorado River and its tributaries and the lands of the district for any useful purpose, and to use, distribute and sell the same, within the boundaries of the district, *or within the boundaries of the watershed that contributes inflow to the Colorado River below the intersection of Coleman, Brown, and McCulloch counties*, for any such purpose;

(b) to develop and generate water power and electric energy within the boundaries of the district and to distribute and sell water power and electric energy, within or without the boundaries of the district;

(c) to prevent or aid within the boundaries of the district in the prevention of damage to person or property from the waters of the Colorado River and its tributaries;

(d) to forest and reforest and to aid in the foresting and reforesting of the watershed area of the Colorado River and its tributaries, within the boundaries of the district, and to prevent and to aid in the prevention of soil erosion and floods within said watershed area;

(e) to acquire by purchase, lease, gift or in any other manner provided by law and to maintain, use and operate any and all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of the district, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act;

(f) to acquire by condemnation any and all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of the district (other than such property or any interest therein without the boundaries of the district as may at the time be owned by any body politic) necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, in the manner provided by general law with respect to condemnation or, at the option of the district, in the manner provided by the statutes relative to condemnation by districts organized under general law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

(g) subject to the provisions of this Act from time to time to sell or otherwise dispose of any property of any kind, real, personal or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the district;

(h) to overflow and inundate within the boundaries of the district any public lands and public property and to require the relocation of roads, pipelines, transmission lines, railroads, cemeteries and highways in the manner and to the extent permitted to districts organized under general law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

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

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

(k) to adopt and use a corporate seal;

(l) to make bylaws for the management and regulation of its affairs;

(m) to appoint officers, agents and employees, to prescribe their duties and to fix their compensation;

(n) to make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act or permitted by general law;

(o) to borrow money for its corporate purposes on notes or other written evidence of indebtedness for a period not to exceed five years as may be authorized from time to time by an affirmative vote of 12 members of the board of directors which loans or indebtedness shall be repaid from the proceeds of bonds of the district at the next bond offering and, without limitation of the generality of the foregoing, to borrow money, accept grants from

the United States of America, or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, and, in connection with any such loans or grants, to enter into such agreements as the United States of America, the State of Texas, or such corporation or agency may require; and to make and issue its negotiable bonds for moneys borrowed, in the manner provided in Section 11. Nothing in this Act shall authorize the issuance of any bonds, notes or other evidences of indebtedness of the district, except as specifically provided in this Act;

(p) to provide for the study, correcting and control of both artificial and natural pollution, including organic, inorganic and thermal, of all ground or surface water of the Colorado River and its tributaries within the boundaries of the district. In this connection, the district is given the power to promulgate by ordinance rules and regulations with regard to such pollution, both artificial and natural, with the right of policing by said district to enforce such rules and regulations and of providing reasonable and commensurate penalties for the violation of any rules and regulations, which penalties shall be cumulative of any penalties fixed by general law in Texas, and not to exceed the limit for penalties as fixed elsewhere in this Act. Provided, however, that no ordinance enacted pursuant to the powers hereinabove given the district by this section shall be promulgated in any county or counties outside the existing boundaries of the district;

(q) as a necessary aid to the conservation, control, preservation, purification and distribution of surface and ground waters of the Colorado River and its tributaries within the boundaries of the district, the district shall have the power to construct, own, operate, maintain or otherwise provide sewage gathering, treatment and disposal services, including waste disposal services, and to make contracts in reference thereto with the United States, the State of Texas, counties, municipalities, and others, and the district shall charge the actual cost of such services;

(r) to develop and manage parks, recreational facilities, and natural science laboratories, and to promote the preservation of fish and wildlife within the boundaries of the district. The district may negotiate contracts with any county, municipality, municipal corporation, person, firm, corporation, nonprofit organization, or state or federal agency for the operation and maintenance of any such park, recreational facility or natural science laboratory. The preservation of fish and wildlife shall be in accordance with the rules and regulations, if any, prescribed by the Parks and Wildlife Commission of the State of Texas or its successor. Notwithstanding any other provisions of this Act, the board of directors of the district shall have the power to charge and collect reasonable entrance, gate, or use fees for the development, management and use of parks and recreational facilities developed in whole or in part by the district;

(s) to enter into such agreements as may be legally authorized by Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1435a, Vernon's Texas Civil Statutes), to acquire, install, construct, operate, enlarge and make additions to, and own and operate electric power and energy generating facilities as provided in said article, in joint ownership with others, either as cotenants or under such other arrangements as may be a three-fourths vote of the statutory membership of the board be approved, and, in accordance with and subject to the terms of such agreements, if any, from time to time to sell or otherwise dispose of any or all of this interest in such jointly owned electric power and generating facilities. This subsection shall not apply to generating facilities or other property wholly owned by the district;

(t) to do any and all other acts or things necessary or convenient, including, but not limited to, the control of the use of the surface of any lakes or islands located therein developed by the district and to levy a charge for the commercial use thereof, to the exercise of all powers, rights, privileges, authority or functions conferred upon it by the Constitution of Texas, this Act or any other act or law;

(u) to enter into contracts with the State of Texas through the State Board of Control providing for direct sale by the district of electrical power to the state for use in buildings or other facilities owned, leased, or rented by the state in Travis County.

Provided, however, that said district shall not be permitted to use for irrigation purposes any water under any permit or permits hereafter acquired from any other company or person unless expressly authorized by and granted to the district by the Texas Water Rights

Commission or its successor agency under authority of law; and said Texas Water Rights Commission or its successor agency in considering subsequent applications by said district shall at all times consider the needs of the people living within and on lands lying within the watershed of the Colorado River and its tributaries above the district.

Provided that in creating and conferring the benefits of this Act on said district, it is declared as an essential part thereof that irrespective of any existing right or rights or permit or permits issued by the Texas Water Rights Commission or its successor agency or its predecessor agency to use the waters of the Colorado River and its tributaries for the generation of hydroelectric power and which rights or permits may be held or acquired by the district, the impounding and use of the flood waters of the Colorado River and/or its tributaries for the generation of hydroelectric power by the district and/or anyone who may succeed to the rights and privileges conferred upon it by this Act, shall be subject to the rights of any other person, municipal corporation or body politic heretofore or hereafter, under legal grant of authority, impounding and putting to beneficial use any such waters when such other person, municipal corporation or body politic has received a permit for such use or uses from the Board of Water Engineers of the State of Texas, the Texas Water Rights Commission or its successor agency, or who by law has heretofore been or hereafter may be permitted to impound water for the aforesaid purposes, and nothing in this Act shall ever be construed as to require any such municipal corporation or body politic to surrender any such rights to which it may be legally entitled to the district and shall not be construed so as to subject to condemnation by said district or any successor or by anyone who may succeed to the rights and privileges conferred upon it by this Act any waters heretofore impounded or to be impounded within or without the district under any law authorizing water to be impounded or under any permits heretofore granted or hereafter granted to a municipal corporation or body politic or any waters heretofore impounded or permitted to be impounded or used without the district under permits heretofore or hereafter legally granted to any person.

Nothing in this Act shall be construed as depriving any person or municipality of the right, legally granted, to impound the waters of the Colorado River and/or its tributaries for authorized beneficial uses, nor of repealing any law granting such rights to persons and municipalities.

SECTION 2. 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 March 10, 1993: Yeas 31, Nays 0; passed the House on April 19, 1993: Yeas 129, Nays 0, one present not voting.

Approved April 29, 1993.

Effective April 29, 1993.