

CHAPTER 251

H.B. No. 2131

AN ACT

relating to the administration, powers, duties, operation, and financing of the Canadian River Municipal Water Authority.

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

SECTION 1. Section 6(g), Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) The Board of Directors shall canvass the returns of the election and adopt a resolution declaring the results thereof. If such resolution shows that a majority of the votes cast are in favor of annexation to the District, ~~the [and such]~~ annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the general election laws. A certified copy of said order shall be recorded in the deed records of the county in which the territory is situated.

SECTION 2. Section 13, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. DISTRICT POWERS. In addition to those herein otherwise mentioned, the District shall be and is hereby authorized to exercise the following powers, rights, privileges and functions:

(a) To store, control, conserve, protect, distribute and utilize *within or without the District or within or without the state* the storm and flood waters and unappropriated flow of the Canadian River and its tributaries, and to prevent the escape of any such waters without first obtaining therefrom a maximum of public benefit, by the construction of a dam or dams across said river and its tributaries, or otherwise, by complying with Chapter 11, Water Code [I, Title 128, Revised Civil Statutes of Texas, as amended], and in such manner as shall fully recognize and be in harmony with the limitations of use of the waters of said river provided in the "Canadian River Compact" appearing as Chapter 43, Water Code [Article 7466h of said statutes]. The District is also empowered to provide by purchase, contract, lease, gift, or in any other lawful manner, and to develop all facilities *within or without the District or within or without the state* deemed necessary or useful for the purpose of storing, controlling, conserving, protecting, distributing, processing and utilizing such surface water and the transportation thereof to the cities and areas comprising the District for municipal, domestic, industrial and other useful purposes permitted by law.

(b) To acquire and develop *within or without the District or within or without the state* any other available source of surface, storm, flood, underground, or other water supply and to construct, acquire and develop all facilities deemed necessary or useful with respect thereto. ~~[The District, however, shall not be authorized to acquire underground water rights either by condemnation or purchase or otherwise, or develop underground water resources in any manner.]~~

(c) *To acquire, construct, develop, operate, and maintain any and all property of any kind, real, personal, or mixed, or any interest in property whether within or without the District or within or without the state and to enter into any contracts*

with any person or legal entity and take all actions necessary or convenient in order to protect and preserve, and to prevent, eliminate, reduce, or minimize the pollution, contamination, or deterioration of the quality of, the water of the Canadian River or any of its tributaries or the water of any other source of water supply to the District in order to facilitate the use of the water for any lawful purpose.

(d) To acquire, construct, develop, operate, and maintain any facilities or systems for drilling, pumping, capturing, reducing, intercepting, eliminating, impounding, controlling, using, injecting or otherwise capturing and disposing of brine, brackish water, saltwater, saline water, or other water contaminated by any type of chlorine, sodium, sulfates, or other chemical condition or characteristic detrimental to the quality of the water, whether the source of contaminated water is groundwater or surface water, within or without the District or within or without the state, and whether the facilities or systems are located within or without the District or within or without the state.

(e) To acquire or utilize surface or underground water rights and to develop surface or underground water resources in any manner in furtherance of the purposes described in Subsections (c) and (d) of this section.

(f) To declare any facilities or system acquired or constructed under Subsections (a) through (e) of this section to be a part of the District's water supply system.

(g) [(e)] To acquire by purchase, construction, lease, gift, or in any other lawful manner, 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 or within or without the state, necessary or convenient to the exercise of the powers, rights, privileges and functions possessed by the District under this Act.

*(h) [(d)] 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, necessary or convenient to the exercise of the powers, rights, privileges and functions possessed by the District, in the manner provided by *Chapter 21, Property Code [Title 52, Revised Civil Statutes, as amended]*, relating to eminent domain. The amount of and character of the property thus to be acquired shall be determined by the Board of Directors, provided that the District shall not have the right to so condemn any property which may be owned by any other political subdivision, city or town; provided, however, that as against persons, firms, and corporations, and receivers or trustees thereof, who have the power of eminent domain, the fee title may not be condemned, but the District may condemn only an easement. *It is specifically provided, however, that the District does not have the authority to condemn underground water rights.**

(i) [(e)] To sell or otherwise dispose of any surplus property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the operation of the District; provided, however, that in all cases in which the Board of Directors considers the value of such property to be in excess of One Thousand (\$1,000.00) Dollars, same shall be sold only upon advertisement and competitive bids.[;]

(j) [(f)] To require the relocation of roads and highways in the manner and to the extent permitted to Districts organized under Section 59 of Article XVI of the Texas Constitution; the cost of relocation of any roads, highways or railroads or telephone or telegraph properties or facilities made necessary by this Act and any reasonable actual damage incurred in changing and adjusting the lines and grades of railroads or such highways or roads or telephone or telegraph properties or facilities shall be paid by the District.[;]

(k) [(g)] To make contracts with any person or legal entity, including the United States, the state, any political subdivision or body politic and corporate of the state, any other state, any political subdivision or body politic and corporate within any other state, and any interstate compact commission or similar organization, necessary or convenient to the exercise of the powers, rights, privileges and functions of the District and to take all actions and execute all instruments necessary or convenient to the exercise of the powers, rights, privileges and functions of the District.[;]

(l) [(h)] To make or cause to be made surveys and engineering investigations for the information of the District, to facilitate the accomplishment of the purposes for which it is created.[;]

(m) [(i)] To borrow money for its corporate purposes, and without limitation of the generality of the foregoing to borrow money and accept grants, gratuities or other support 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 loan, grant, or other support, to enter into such arrangement with the United States of America or the State of Texas or such corporation or agency, of either as the District may deem advisable.[;]

(n) [(j)] To make and issue its negotiable bonds for moneys borrowed in the manner and to the extent provided in this Act and with reference thereto or otherwise to contract in any manner it shall see fit and as may be required by any law pertaining to loans, grants or other support received from the United States of America or the State of Texas or from any corporation or agency, of either of them.[;]

(o) [(k)] To make such contracts in the issuance of bonds as may be considered necessary or convenient to insure the marketability thereof.[;]

(p) [(l)] To sue or be sued in its corporate name.[;]

(q) [(m)] To adopt, use and alter a corporate seal.[;]

(r) [(n)] To make by-laws for the management and regulation of its affairs.[;]

(s) [(o)] To fix and collect charges and rates for water services furnished by it and to impose penalties for failure to pay such charges and rates when due, provided that such charges, rates and penalties shall be fixed only by unanimous vote of the members of the Board of Directors constituting a quorum and who are present at a regular meeting.

(t) [(p)] To cooperate and to enter into contracts with cities, persons, firms, corporations and public agencies for the purpose of supplying and selling them surface, storm, [and] flood, *underground*, and *other* water for municipal, domestic, industrial, and other useful purposes permitted by law, provided that cities and areas constituting the District shall be accorded priority in the allocation of the District's available surface, storm, [and] flood, *underground*, and *other* water, and the Board of Directors shall prescribe rules to effectuate this provision. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until the District's bonds specified therein and refunding bonds issued in lieu of such bonds are fully paid. ~~[No contract for the sale of water or other services by the District to any member or other city shall be entered into until approved by a majority vote at an election held in such city for the purpose, pursuant to a call therefor by its governing body in accordance with the provisions of Article 1109(e), Revised Civil Statutes of Texas, 1925, as amended. Should the District's Board of Directors in regular meeting determine upon a plan of financing involving the issuance of bonds or other obligations to be supported wholly or partially by revenues to be derived from contracts for the sale of water or other services to its member cities, or any of them, it shall promptly direct a certified copy of its resolution to such effect together with a copy of the proposed contract to each member city in which such election is proposed to be held. In the aforesaid resolution, the Board may designate a limit of time (not less than sixty (60) days from the time of notice to the city) in which the member city's governing body shall call such contract election. If the governing body of any member city so notified shall fail or refuse to call such election within the specified time, or if the election is held but results adversely to the adoption of the proposed contract, such city shall then cease to be a part of the District and no longer shall be entitled to representation on the District's Board of Directors. After having so contracted with the District for a water supply, no member city shall be eliminated by virtue of its failure to call or carry a subsequent contract election under the procedures aforementioned, but upon such subsequent failure the District shall not be obligated to furnish such city the services or facilities to be supplied or constructed with the proceeds of the District's bond or other obligations which are supported in any part by the money to be due the District under such contracts. Any member city eliminated from the District under the provisions of this Section may again become a part thereof pursuant to the provisions of Section 6 of this Act.]~~ In the event the District shall have contracted

with the United States Government or any of its agencies for a source of water supply or for the furnishing of any facilities necessary or useful to the District in carrying out its purposes, any such contract entered into under authority hereof may provide that it shall continue until the District has fully discharged all obligations incurred by it under the terms of its contract with the United States Government or its agencies. The District is also authorized to purchase surface, storm, ~~and~~ flood, *underground, and other* water supply from any person, firm, corporation or public agency, or from the United States Government or any of its agencies.

(u) ~~[(q)]~~ To operate and maintain with the consent of the governing body of any city or town located within the District, any works, plants or facilities of any such city deemed necessary or convenient to the accomplishment of the purposes for which the District is created.~~;~~

(v) ~~[(r)]~~ To levy, assess and collect ad valorem taxes to provide funds necessary to construct or acquire, maintain and operate improvements, works, plants and facilities deemed essential and beneficial to the District upon a favorable majority vote of the qualified property taxpaying electors voting at an election held for that purpose within the District; and also, when so authorized, to levy, assess and collect taxes to provide funds adequate to defray the cost of the maintenance and operation and administration of the District. Elections for the voting of such taxes shall be ordered by the Board of Directors and shall be held and conducted as provided herein for elections for the issuance of bonds and the levy of taxes in support thereof. When so levied such taxes, as well as taxes hereinafter provided to be levied in support of bond indebtedness, shall constitute a lien on the property against which such taxes are levied and assessed, and limitations shall not bar the collection and enforcement thereof.~~;~~

(w) ~~[(s)]~~ To do any and all acts and things necessary or convenient to the exercise of the powers, rights, privileges or functions conferred upon or permitted the District by any other law.

SECTION 3. Sections 15(a), (b), (h), and (l), Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) For the purpose of providing a source or sources of water supply for cities and other users for municipal, domestic, industrial, and other useful purposes permitted by law, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, *including the powers conferred by Section 13 of this Act*, the District may issue its negotiable bonds to be payable from net operating income and revenues, or from taxes, or from both such revenues and taxes of the District as are pledged by resolution of the Board of Directors. In addition to the authority to issue bonds for such purposes, the District is further authorized to contract in any other lawful manner and to prescribe the method of payment of any such contract either by the use of net revenues, taxes, or both.

(b) Bonds shall be authorized by resolution of the Board of Directors, shall bear such date or dates, mature at such time or times and bear interest at such rate or rates as the Board of Directors may determine. They shall be signed by the President and attested by the Secretary and shall have the seal of the District impressed thereon. All bonds may be sold at such price and under such terms as may be determined by the Board of Directors to be the most advantageous and reasonable obtainable~~[, provided that the interest cost to the District, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six (6%) percent per annum]~~. Within the discretion of the Board, bonds may be made callable and subject to redemption prior to their maturity at such times and at such prices as may be prescribed in the authorizing resolution. Interest on all bonds shall be payable annually or semi-annually within the discretion of the Board. Bonds may be issued in one or more than one series and from time to time as required in carrying out the purpose of this Act. They shall be in such form, either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds, or vice versa, and exchange of bonds of one denomination for bonds of other denominations, and be payable at such place or places within or without the State of

Texas as the Board of Directors shall determine and prescribe in the resolution or resolutions authorizing such bonds.

(h) All bonds issued by the District pursuant to the provisions of this Act shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law of this State. Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with the law, ~~[including compliance with Article 7880-139, Revised Civil Statutes of Texas, 1925,]~~ he shall approve such bonds and execute a certificate of approval which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas, and be recorded in a record kept for that purpose. No bond shall be issued until the same shall have been registered by the Comptroller of Public Accounts, who shall so register the same if the Attorney General shall have filed with the Comptroller of Public Accounts his certificate approving the bonds, and the proceedings for the issuance thereof, as hereinabove provided. When bonds or the proceedings pertaining thereto recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city, district, or other user, a copy of such contract and proceedings of the contracting parties shall be submitted to the Attorney General with the bond record, and if such bonds have been duly authorized and such contracts made in compliance with law, he shall approve the bonds and contracts and the bonds shall then be registered by the Comptroller of Public Accounts. When approved as aforesaid, the bonds and contracts shall be valid and binding and shall be incontestable for any cause. Whenever the District shall have issued bonds, including interim or temporary bonds, or has contracted with the United States or with the State of Texas, or any corporation or agency of either, in connection with the financing of its works or facilities, it may validate such bonds or contracts by suit in the manner and with the same effect as provided by *Sections 51.423-51.431, Water Code* ~~[Article 7880-95-100, inclusive, Revised Civil Statutes of Texas, 1925, as now and hereafter amended].~~

(l) No bonds~~[-whether]~~ supported *in whole or in part* by taxes *to be levied by the District*, ~~[revenues or a combination thereof (except refunding bonds related to the bonds,)]~~ shall be issued unless authorized by an election at which only the qualified voters who reside in the District, who own taxable property therein and who have duly rendered the same for taxation, shall be qualified to vote, and unless a majority of the votes cast at said District-wide election is in favor of the issuance of the bonds. ~~[No city or area shall be eliminated from the District perforce any of the provisions of this Act if the District containing such City or area shall have previously authorized and issued bonds pursuant to the provisions of this Section, and in such event the District shall thereafter remain as constituted at the time bonds were first authorized and issued hereunder.]~~

Bond elections may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint the necessary assistant judges and clerks for holding such elections. Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper or newspapers of general circulation in each city contained in the District once a week for two (2) consecutive weeks. The first publication shall be at least twenty-one (21) days prior to the election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. The General Laws relating to elections shall be applicable to elections held under this Section of this Act, except as otherwise provided in this Act.

SECTION 4. Section 15, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), is amended by adding Subsections (m), (n), and (o) to read as follows:

(m) Bonds of the District supported by revenues or sources other than taxes to be levied by the District may be issued as otherwise provided by this Act without holding an election to approve the bonds.

(n) The District may issue bond anticipation notes for any purpose for which bonds of the District may be authorized or for the purpose of refunding previously issued bond anticipation notes. The District may covenant with the purchasers of the bond anticipation notes that the District will use the proceeds of sale of any bonds authorized by the District for the purpose of refunding the bond anticipation notes, in which case the District will be required to use the proceeds received from sale of the bonds to pay principal, interest, or redemption price on the bond anticipation notes. To the extent applicable, the terms and conditions of this Act relating to bonds of the District apply to the bond anticipation notes.

(o) In addition to the power to issue bonds as provided by this Act, the District may issue bonds for any purpose and in any manner authorized by general law for water control and improvement districts or may issue bonds in any other manner authorized by law. Section 51.421, Water Code, does not apply to issuance of bonds or to construction projects funded by bonds.

SECTION 5. Section 17(a), Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The District is authorized to contract with the United States Government and any of its agencies or under the Federal Reclamation Laws for the construction, operation and maintenance of any work or facility by which water may be supplied and distributed to the District under any Act of Congress providing or permitting such contract, and for the accomplishment of all other powers and purposes of the District including those described in Section 13 of this Act, and shall further have all the rights, powers, privileges and authority granted [~~Water Improvement Districts and Water Control and Improvement Districts~~] under the General Laws of the State in that respect. Any such contract entered into may [~~as aforesaid shall~~] provide that upon the repayment of all amounts to become due thereunder, title to all facilities constructed pursuant thereto, including any dam or reservoir, shall pass to and be lodged in the District, or such contract may [~~shall~~] provide that the District shall be vested with absolute control over the release and use of waters stored in such facilities and belonging to the District so long as it shall remain current in the payment of such amounts as are due the United States Government or its agency under such contract. In all events, title to its water rights shall continue to remain in the District. In the event such a contract is proposed to be made whereby the District shall become obligated to make payments wholly or partially from ad valorem taxes to be levied by the District [~~, or otherwise~~], such contract shall not be entered into unless authorized by an election at which only the qualified voters who reside in the District, who own taxable property therein, and who have duly rendered the same for taxation, shall be qualified to vote, and unless a majority of the votes cast at said election is in favor of the execution of the contract. All methods prescribed in Section 15(l) of this Act relating to [~~the elimination of constituent cities and~~] the voting of bonds shall be fully applicable to the voting of contracts if an election is required under this section.

SECTION 6. Section 18, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. AUTHORITY TO ACQUIRE AND OWN WATER PERMITS. The District is authorized to acquire and own water permits upon compliance with the provisions of the General Law pertaining thereto, as contained in Chapter 11, Water Code [~~1, Title 128, Revised Civil Statutes of Texas of 1925, as amended~~].

SECTION 7. Section 31a, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-154, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act has been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice

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and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives, within the required time. All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 9. 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 23, 1987, by the following vote: Yeas 138, 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. 2131 was transmitted to the Governor on March 13, 1987, and the recommendation of the Texas Water Commission was filed with the Speaker of the House on April 1, 1987. Passed by the Senate on May 14, 1987, by the following vote: Yeas 30, Nays 0.

Approved May 28, 1987.

Effective May 28, 1987.