

CHAPTER 598

H.B. No. 2566

AN ACT

relating to the creation, administration, powers, duties, operations, financing, authority to issue bonds and levy taxes, eminent domain authority, and organization of the Roberts County Water District.

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

SECTION 1. CREATION. Pursuant to Article XVI, Section 59, of the Texas Constitution and subject to voter approval at a confirmation election, a conservation and reclamation district is created to be known as the "Roberts County Water District," which shall be a governmental agency and a body politic and corporate.

SECTION 2. DEFINITIONS. In this Act:

- (1) "District" means the Roberts County Water District.
- (2) "County" means Roberts County.
- (3) "Board" means the board of directors of the district.

SECTION 3. BOUNDARIES. (a) The district shall contain all of the territory located within the boundaries of Roberts County, with the district's boundaries being coterminous with the boundaries of the county as the boundaries of the county existed on January 1, 1987.

(b) It is provided, however, that a mistake in the establishment of the boundaries does not affect the boundaries of the territory contained in the district.

(c) The legislature finds and determines that all of the territory and taxable property located within the boundaries of the district will be benefited by the works and improvements of the district.

SECTION 4. FINDING OF BENEFIT. The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution and that the district is created to serve a public use and benefit.

SECTION 5. CONFIRMATION ELECTION. (a) The initial board shall hold a confirmation election for the voters of the district to approve the creation of the district.

(b) The initial board of directors of the district shall conduct the confirmation election in accordance with Sections 54.026 through 54.029, Water Code.

(c) The initial board of directors may submit at the confirmation election a proposition for the issuance of bonds and a proposition for a maintenance tax.

(d) The election may be held on any date selected by the board, and Section 41.001(a), Election Code, does not apply to the confirmation election.

SECTION 6. DIRECTORS. (a) The district shall be governed by a board of five directors who shall occupy places on the board to be designated as Places Nos. 1, 2, 3, 4, and 5, respectively. The initial directors and the expiration of their terms are as follows:

1	J. T. Webb	December 31, 1990
2	William H. Clark	December 31, 1988
3	Ronnie Gill	December 31, 1990
4	Ronnie Gill	December 31, 1990
4	Don Morrison	December 31, 1988
5	Clyde Hodges	December 31, 1990

(b) Subsequently, the board shall be composed of the county judge and the commissioners court of Roberts County, Texas.

SECTION 7. ADMINISTRATION. (a) A director may not receive any compensation for serving as director but is entitled to reimbursement for his actual expenses incurred in performing his duties, to the extent authorized and permitted by the board.

(b) The board shall elect one of the directors as president of the board, who shall serve for a term of one year, preside at meetings of the board, and perform the other duties prescribed by the board. The board shall elect another of the directors as vice-president of the board, who shall perform the duties of the president when the president is not present or is otherwise incapacitated. The board shall elect a secretary of the board who shall be the official custodian of the minutes, books, records, and seal of the board, and who shall perform the other duties and functions prescribed by the board. The board shall elect a treasurer of the board who shall perform the duties and functions prescribed by the board. The offices of secretary and treasurer may be held by one person, and the secretary or treasurer is not required to be a director. The board may appoint one or more persons who are not directors to be an assistant secretary of the board, who may perform any duty or function of the secretary of the board.

(c) Any three regular directors shall constitute a quorum. The district shall act and proceed by and through resolutions adopted by the board, and the affirmative vote of at least three of the directors shall be necessary to adopt any resolution.

(d) The president, vice-president, secretary, and treasurer of the board shall be elected initially at the first meeting of the board after this Act takes effect. Thereafter, the officers of the board shall be elected annually at the first meeting of the board in April of each year.

(e) The board shall have regular meetings at times specified by resolution of the board and shall have special meetings whenever called by the president, or by any three of the directors.

(f) A director is not personally liable for any bonds issued, or contracts executed, by the district.

SECTION 8. POWERS. The district may exercise all powers necessary or appropriate to carry out or achieve the purposes of this Act, including to:

- (1) sue and be sued, and plead and be impleaded, in its own name;
- (2) adopt an official seal and alter the seal when considered advisable, adopt and enforce bylaws, rules, and regulations for the conduct of its affairs;
- (3) acquire, hold, use, and dispose of its revenues, income, receipts, funds, and money from every source, and select its depository or depositories;
- (4) acquire, own, rent, lease, accept, hold, or dispose of any property, or any interest in property, in performing its duties and exercising its powers under this Act, by purchase, exchange, gift, assignment, condemnation, sale, lease, or otherwise, including rights or easements;
- (5) hold, manage, operate, or improve property;
- (6) sell, assign, lease, encumber, mortgage, or otherwise dispose of any property, or any interest in property, and release or relinquish any right, title, claim, lien, interest,

easement, or demand, however acquired, and do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

(7) lease or rent any land, buildings, structures, or facilities from or to any person, firm, corporation, city, or other public agency or political subdivision to carry out the purposes of this Act;

(8) request and accept appropriations, grants, allocations, subsidies, guaranties, aid, contributions, services, labor, materials, gifts, or donations from the federal government, the state, a city, public agency, political subdivision, or any other source;

(9) operate and maintain an office, and to appoint, and determine the duties, tenure, qualifications, and compensation of the officers, employees, agents, professional advisors, and counsellors, including financial consultants, accountants, attorneys, architects, engineers, appraisers, and financing experts, as are considered necessary or advisable by the board;

(10) issue its bonds, provide for and secure the payment of the bonds, and provide for the rights of the bondholders in the manner and to the extent permitted by this Act; and

(11) fix and revise from time to time and charge and collect rates, fees, and charges for its facilities and services.

SECTION 9. PERMITS; STORAGE. (a) The district may obtain through appropriate proceedings appropriation permits and diversion permits from the Texas Water Commission.

(b) The district may acquire water appropriation permits from owners of permits by contract or otherwise.

(c) The district may lease, purchase, or otherwise acquire rights in and to storage and storage capacity in any reservoir constructed or to be constructed by any person, firm, corporation, public agency, political subdivision, the state, or the United States or any of its agencies.

SECTION 10. CONTRACTS. (a) The district may enter into and enforce contracts and agreements for the purchase or sale of water, and for any other purpose relating to its powers, with any person, firm, corporation, public agency, political subdivision, the state, or the United States or any of its agencies.

(b) The district may acquire or construct, inside or outside the boundaries of the district, a reservoir or reservoirs and all works, water wells, water fields, pumps, plants, transmission lines, and other facilities necessary or useful for the purpose of diverting, impounding, drilling, storing, treating, and transporting water to the city of Miami and others for municipal, domestic, industrial, mining, oil flooding, or any other useful purpose.

(c) The district may sell water inside or outside the boundaries of the district and may develop or otherwise acquire underground sources of water.

(d) All public agencies and political subdivisions of the state, including the city of Miami, may enter into contracts and agreements with the district for a water supply, or for any purpose relating to the district's powers or functions, on the terms and conditions to which the parties may agree. Also, each entity, including the city of Miami, may lease, sell, or otherwise convey any of its land or any interest in land to the district for the consideration agreed on between the parties to be adequate.

(e) Approval, notice, consent, or an election is not required in connection with any contract, agreement, or conveyance.

(f) The rights, powers, privileges, authority, and functions granted to the district are subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Commission, subject to the provisions of this Act, and the Water Code.

SECTION 11. ACQUISITION AND DISPOSITION OF PROPERTY. (a) The district may acquire land or any interest in land, inside or outside the boundaries of the district, for all works, water wells, water fields, pumps, plants, and other facilities necessary or useful for the purpose of diverting, impounding, drilling, storing, treating, and transport-

ing water to the city of Miami and others, for municipal, domestic, industrial, mining, oil flooding, and any other useful purpose.

(b) Subject to the terms of any resolution or deed of trust authorizing or securing bonds issued by the district, the district may sell, lease, rent, trade, or otherwise dispose of any real or personal property considered unnecessary for district purposes by the board.

SECTION 12. EMINENT DOMAIN AUTHORITY. (a) For the purposes of this Act, the district may acquire the fee simple title to land or any other interest in land, other property, or easements, including water rights, land, or any interest in land or water rights necessary for water fields, water wells, reservoir, dam and flood easements above the probable high water line around any reservoirs, inside or outside the boundaries of the district, by condemnation as provided by Chapter 21, Property Code.

(b) The amount of and character of interest in land, other property, and easements to be acquired shall be determined by the board.

(c) The district has the same power provided by general law for water control and improvement districts under Chapter 51, Water Code, regarding entering land, making surveys, and attending to other business of the district.

(d) The district is given and granted all necessary or useful rights-of-way or easements along, over, under, and across all public, state, city, and county roads, highways, and places for any of its purposes, but the district shall restore those facilities used to their previous condition as nearly as possible at the sole expense of the district.

(e) The district may exercise the power of eminent domain to acquire property necessary to carry out the purposes of the district. If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or change in grade or alteration of the construction of any railroad, electric transmission or distribution line, telegraph or telephone lines, conduits, poles, properties, facilities, or pipelines, all necessary relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of the facilities, after deducting the net salvage value derived from the old facility.

SECTION 13. CONSTRUCTION CONTRACTS. (a) The district must publish notice for any construction contract requiring an expenditure of more than \$5,000 before the contract may be awarded.

(b) Notice must be published once each week for two consecutive weeks in a newspaper with general circulation in the district before awarding the contract.

(c) The notice must state the time and place the bids will be opened, the general nature of the work to be done or the material, equipment, or supplies to be purchased, and the location at which the terms and conditions of bidding and copies of the plans and specifications may be obtained.

SECTION 14. NEGOTIABLE BONDS. (a) For the purpose of this Act, the district may issue negotiable bonds payable from and secured by revenues or ad valorem taxes, or both revenues and ad valorem taxes of the district, in the manner and under the terms and conditions provided by the resolution authorizing the issuance of the bonds.

(b) The bonds must be authorized by resolution of the board and shall be issued in the name of the district, signed by the president or vice-president, attested by the secretary, and shall bear the seal of the district. However, the signatures of the president, the vice-president, or the secretary or of both may be printed or lithographed on the bonds if authorized by the board and the seal of the district may be impressed on the bonds or may be printed or lithographed on the bonds.

(c) The bonds shall mature serially or otherwise in not to exceed 40 years from the date of issuance and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable, provided that the interest cost to the district, including the discount, if any, does not exceed the maximum permitted by general law. At the discretion of the board, the bonds may be made callable before maturity at

the times and prices prescribed in the bonds and are registrable as provided in the bond resolution.

- (d) The bonds may be exchanged for assets to be acquired by the district.
- (e) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.
- (f) The bonds may be secured by a pledge of all or any part of the revenues of the district, by all or any part of the revenues of any one or more contracts entered into by the district, or by other revenues or income specified by resolution of the board or in any trust indenture securing the bonds. Any pledge may reserve the right, under conditions specified in the pledge, to issue additional bonds that will be on a parity with or subordinate to the bonds then being issued.
- (g) The district may issue bonds payable from ad valorem taxes to be levied on all taxable property in the district or bonds secured by and payable from both taxes and revenues of the district as provided by Subsection (f) of this section.
- (h) If bonds are issued payable wholly or partially from ad valorem taxes, the board shall levy a tax sufficient to pay the principal of and the interest on the bonds when due. The rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues that may be available for payment of the principal of and interest on the bonds to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.
- (i) If bonds payable wholly from revenues are issued, the board shall fix, and from time to time revise, the rates of compensation for water sold and services rendered by the district at amounts that will be sufficient to pay the expense of operating and maintaining the facilities of the district and to pay the principal of and interest on the bonds when due, and to maintain the reserve and other funds as provided by the resolution authorizing the bonds.
- (j) If bonds payable partially from revenues are issued, the board shall fix, and from time to time revise, the rate of compensation for water sold, and any other services rendered by the district, at amounts that will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing the bonds.
- (k) The district may set aside an amount from the proceeds from the sale of the bonds for the payment of interest expected to accrue during construction not to exceed three years, a reserve interest and sinking fund, and any other funds as may be provided in the resolution authorizing the bonds or in the trust indenture. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which the district is created, including the expense of issuing and selling bonds.
- (l) In the event of a default or a threatened default in the payment of the principal of or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, on petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the district, except taxes, employ and discharge agents and employees of the district, take charge of funds on hand, except funds received from taxes, unless comingled, and manage the proprietary affairs of the district without consent or hindrance by the board. The receiver also may sell or make contracts for the sale of water or renew contracts with the approval of the court appointing the receiver. The court may vest the receiver with any other powers and duties the court finds necessary for the protection of the holders of the bonds.
- (m) The resolution authorizing the issuance of the bonds, or the trust indenture securing them, may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute litigation affecting the district's property or income.

SECTION 15. REFUNDING BONDS. (a) The district may issue refunding bonds for the purpose of refunding any outstanding bonds or interest on bonds authorized by this Act.

(b) Refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenue and mortgage liens.

(c) The provisions of this Act with reference to the issuance by the district of other bonds, their security, and their approval by the attorney general and the remedies of the bondholders are applicable to refunding bonds.

(d) Refunding bonds shall be registered by the comptroller on surrender and cancellation of the bonds to be refunded, or the resolution authorizing their issuance may provide that the refunding bonds shall be sold and the proceeds, together with any other available funds, shall be deposited in the bank at which the original bonds are payable.

(e) If refunding bonds are sold as provided by Subsection (d) of this section, the refunding bonds may be issued in an amount sufficient to pay all principal coming due, all interest accruing, and any required redemption premium on the bonds being refunded to or through any date on which they are subject to redemption before maturity, or through or at their maturity date or dates, respectively, and the comptroller shall register them without concurrent surrender and cancellation of the original bonds, and the provisions shall constitute the making of firm banking arrangements for the discharge and final payment or redemption of the bonds being refunded, paid, or redeemed.

(f) The district may enter into an escrow or similar agreement with any place of payment, paying agent, or trustee with respect to the safekeeping, investment, reinvestment, administration, and disposition of any deposit, on the terms and conditions to which the parties may agree.

(g) The deposits may be invested and reinvested only in direct obligations of the United States, including obligations for which the principal and interest are unconditionally guaranteed by the United States, may be in book entry form, and shall mature or bear interest payable at the times and in the amounts sufficient to provide for the scheduled payment or redemption of the revenue obligations.

(h) If any revenue obligations are scheduled to be paid or redeemed on a date later than the next succeeding scheduled interest payment date, the district must enter into an appropriate escrow or similar agreement.

(i) An election is not required for the issuance of refunding bonds. Refunding bonds also may be issued by the district as provided by other law.

SECTION 16. TRUST INDENTURE. (a) Bonds, including refunding bonds, issued as provided by this Act, that are not payable wholly from ad valorem taxes, 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.

(b) The bonds, at the board's discretion, may be additionally secured by a deed of trust or mortgage lien on physical property of the district and all franchises, easements, water rights, and appropriation permits, leases, and contracts, and all rights appurtenant to the property vesting in the trustee power to sell the property for the payment of indebtedness, power to operate the property, and all other power and authority for the further security of the bonds.

(c) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the property, may contain any provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification to the trust indenture.

(d) The trust indenture may provide for the issuance of bonds to replace lost or mutilated bonds, may condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided by the trust indenture, and may provide for the investment of funds of the district.

(e) The purchaser under a sale under the deed of trust lien where one is given is the absolute owner of property, facilities, and rights purchased and has the right to maintain and operate the same.

SECTION 17. TAX BONDS. (a) Bonds payable wholly or partially from ad valorem taxes, except refunding bonds, may not be issued unless authorized at an election at which a majority of the votes are cast in favor of the issuance of the bonds.

(b) Territory may not be removed from the district after the issuance of bonds payable from revenues or taxes or both.

(c) Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(d) A bond election may be called by the board without a petition. The resolution calling the election shall specify the time and place of the election, the purpose for which the bonds are to be issued, the amount of the bonds, the form of the ballot, and any other matters considered necessary or advisable by the board.

(e) Notice of the election must be given by publishing a substantial copy of the resolution calling the election in a newspaper with general circulation in the district, once a week for two consecutive weeks, with the first publication to be at least 14 days before the date of the election.

(f) The returns of the election shall be canvassed by the board.

(g) Except as otherwise provided by this Act, an election held under this section is governed by the provisions of the Election Code and general laws relating to elections.

(h) The district must secure approval from the Texas Water Commission as provided by Section 51.421, Water Code, before issuing any bonds for improvements.

SECTION 18. ATTORNEY GENERAL APPROVAL. (a) Bonds issued by the district and the records relating to their issuance must be submitted to the attorney general for examination.

(b) If the bonds recite that they are secured by a pledge of the revenues or proceeds of a contract entered into between the district and any city, public agency, political subdivision, or other entity, a copy of the contract and the proceedings of the city, public agency, political subdivision, or other entity authorizing the contract must also be submitted to the attorney general.

(c) If the attorney general finds that the bonds have been authorized and the contracts have been made in accordance with law, he shall approve the bonds and the contracts, and the bonds shall be registered by the comptroller of public accounts.

(d) After the approval and registration of the bonds and the approval of any contracts, the bonds and contracts are valid and binding obligations in accordance with their terms for all purposes and are incontestable in any court or other forum for any reason.

SECTION 19. TAX. (a) The board may annually levy taxes in the district to pay the principal of and interest on bonds issued by the district and the expense of assessing and collecting the taxes.

(b) The board may levy taxes for the entire year in which the district is created.

(c) The board shall levy taxes on all property within the boundaries of the district subject to district taxation.

(d) In setting a tax rate under this section, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.

(e) On approval of a majority of the voters in the district at an election called and held for that purpose, the district may levy and collect a maintenance and operating tax in an amount not to exceed 10 cents on each \$100 of assessed valuation of property in the district to be used to defray the maintenance and operating costs of the district and its facilities. An election under this subsection shall be held as provided by this Act for bond elections.

(f) The Tax Code governs the appraisal, assessment, and collection of district taxes.

SECTION 20. CONTRACTS WITH CITIES. (a) The district may enter into contracts with cities and others, including the city of Miami, for the supply of water. A contract with the city of Miami must provide that the city will pay to the district some portion of

the revenues of the city's water system as an operating expense or from the surplus revenues, if any, from the operation of the city's water system.

(b) The district may contract with any city, public agency, water supply corporation, or political subdivision for the rental or leasing of, or for the operation of the water production, water field, water supply, water filtration or purification, or water supply facilities of the entity on the consideration agreed to by the district and the entity.

(c) Any contract entered into may be on the terms and for the time to which the parties may agree, and it may provide that it continues in effect until bonds specified in the contract and refunding bonds issued in lieu of the bonds are paid.

(d) The district may contract with the city of Miami for the operation of the district's water facilities by the city. An election is not required in connection with a contract for this purpose.

SECTION 21. DEPOSITORY. (a) The board shall name one or more banks inside or outside the district to serve as depository for district funds.

(b) District funds shall be deposited as received with the depository bank.

(c) Bond proceeds and funds pledged to pay bonds may, to the extent provided in any resolution or trust indenture authorizing or securing bonds of the district, be deposited with any other bank or trustee named in the bond resolution or trust indenture, except that funds shall be remitted to each paying agent for the payment of the principal of and interest on the bonds.

(d) To the extent that funds in the depository banks and the trustee bank are not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of city funds.

(e) The board may invest district funds in the manner determined by the board or in the manner permitted or required in any resolution or trust indenture authorizing or securing bonds of the district.

SECTION 22. BONDS AS INVESTMENTS. District bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and

(9) sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state.

SECTION 23. BOND AS SECURITY FOR DEPOSITS. District bonds are eligible to secure deposits of public funds of the state, and cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds are lawful and sufficient security for said deposits to the extent of their value.

SECTION 24. TAX STATUS OF BONDS. Since the district created by this Act is a public entity performing an essential public function, facilities of the district, the bonds issued by the district, any transactions relating to the bonds, and profits made on the sale of the bonds, are free from taxation by the state.

SECTION 25. TAX ROLL. (a) The Roberts County tax roll as prepared by the Roberts County Tax Appraisal District shall constitute the tax rolls of the district.

(b) The Roberts County tax assessor-collector shall collect ad valorem taxes for the district.

SECTION 26. CONFLICT WITH OTHER LAWS. This Act is sufficient authority within itself for the issuance of the bonds, the execution of contracts and conveyances,

and the performance of the other acts and procedures authorized by the district, the city of Miami, all other public agencies and political subdivisions, and other water supply corporations, without reference to any other law or any restrictions or limitations except as specifically provided by this Act. If any bonds are issued or other action is taken under this Act, to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act prevail. The district, the city of Miami, all other public agencies and political subdivisions, and water supply corporations, may use the provisions of any other laws not in conflict with this Act to the extent convenient or necessary to carry out any power or authority, express or implied, by this Act.

SECTION 27. NOTICE, ETC. 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 have 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 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 28. 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 May 15, 1987, by the following vote: Yeas 144, 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. 2566 was transmitted to the Governor on April 24, 1987, and the recommendation of the Texas Water Commission was filed with the Speaker of the House on May 11, 1987. Passed by the Senate on May 28, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 18, 1987.

Effective June 18, 1987.
