

# Senate Bill Number 5 (1985)

An Act relating to the creation, administration, powers, duties, operations, and financing of the Sulphur River Basin Authority; authorizing certain public agencies to contract with the authority; and providing civil penalties.

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

SECTION 1. CREATION. (a) Pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district is created to be known as Sulphur River Basin Authority.

...(b) The authority is a governmental agency and a body politic and corporate.

...(c) The authority created under this section may not levy any taxes or create any debt payable out of taxation.

...(d) The authority may exercise all the rights and powers of an independent agency, body politic and corporate, to construct, maintain, and operate inside the state and in the watershed of the Sulphur River and its tributaries inside or outside the boundaries of the authority any works considered essential to the operation of the authority and for its administration in controlling, storing, preserving, and distributing the water of the Sulphur River and its tributary streams, including the storm water and floodwater. The authority may exercise the power of control and regulation over the water of the Sulphur River and its tributaries as may be exercised by the state, subject to the constitution and the laws of this state.

SECTION 2. DEFINITIONS. IN THIS ACT:

...(1) "Authority" means the Sulphur River Basin Authority.

...(2) "Basin" means the watersheds of the Sulphur River within the boundaries of the authority as defined in Section 3 of this Act.

...(3) "Board" means the board of directors of the authority.

...(4) "Commission" means the Texas Water Commission.

...(5) "Department" means Texas Department of Water Resources.

...(6) "Development board" means the Texas Water Development Board.

...(7) "Person" means an individual, corporation, organization, public agency, business trust, estate, trust, partnership, association, and any other legal entity.

...(8) "Public agency" means any government or governmental subdivision or agency.

...(9) "State" means the State of Texas or any of its agencies, departments, boards, political subdivisions, or other entities.

...(10) "United States" includes any department, bureau, and other agency of the United States.

...(11) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, waste heat, solid waste, or any other waste.

SECTION 3. BOUNDARIES. (a) The authority is composed of the territory in each county in Texas, other than Fannin County, that is located in whole or in part within the watershed of the Sulphur River and its tributaries with confluences with the Sulphur River upstream from the eastern boundary of Texas, as those watersheds and tributaries are defined by maps now on file with the Texas Department of Water Resources.

...(b) The legislature finds that all of the land included in the authority will be benefited by the improvements to be acquired and constructed by the authority.

SECTION 4. AUTHORITY PURPOSES. The purpose of this Act is to authorize the authority to provide for the conservation and development of the state's natural resources within the basin of Sulphur River, including:

...(1) the control, storage, preservation, and distribution of the state's water for domestic and municipal uses, industrial uses, irrigation, mining and recovery of minerals, stock raising, underground water recharge, electric power generation, navigation, recreation and pleasure, and other beneficial uses and purposes;

...(2) the reclamation and irrigation of land needing irrigation:

...(3) the reclamation and drainage of overflowed land and other land needing drainage;

...(4) the maintenance and enhancement of the quality of the water;

...(5) the conservation and development of the forests water, and hydroelectric power;

...(6) the navigation of inland water; and

...(7) the provision of systems, facilities, and procedures for the collection, transportation, handling, treatment, and disposal of waste of all types.

SECTION 5. CONSTRUCTION OF ACT. This Act shall be liberally construed to achieve its purposes and any particular grant of power included in this Act shall be held to specify but not to limit general powers. This Act is sufficient authority for the performance of all acts and procedures authorized by this Act, without reference to any other law or any restrictions or limitations included in any other law.

SECTION 6. BOARD OF DIRECTORS. (a) The authority shall be governed by a board of directors composed of six members. The members of the board shall be appointed by the governor with the advice and consent of the senate. Two members of the board shall be appointed from each of the following regions:

...(1) Region 1: Bowie and Red River counties;

...(2) Region 2: Cass, Franklin, Hunt, Morris, and Titus counties; and

...(3) Region 3: Delta, Hopkins, and Lamar counties.

...(b) Each member of the board must be a qualified elector and a resident of a county in the region for which he is appointed.

...(c) Except for the initial members of the board, each member of the board shall serve for a term of six years and until his successor has qualified. Of the six initial members appointed by the governor, the governor shall designate two members to serve for terms that expire on February 1, 1987, two members to serve for terms that expire on February 1, 1989, and two members to serve for terms that expire on February 1, 1991.

...(d) Each member of the board shall qualify by taking the constitutional oath of office and by executing a bond in an amount determined by the board conditioned on the faithful performance of his duties.

...(e) All vacancies on the board shall be filled in the manner provided by this section for making the original appointment.

...(f) The governor may remove a director from office for inefficiency, neglect of duty, misconduct in office, or absence from three consecutive regular meetings of the board. Before a director is removed from office, the board shall call and hold a hearing on the charges against him, and the director who is the subject of the proposed removal is entitled to appear at the hearing and present evidence to show why he should not be removed from office. Not later than the 30th day before the date of the hearing, the board shall give the accused director notice of the charges against him and the time and place for the hearing. An affirmative vote of not less than four of the directors is required to approve a recommendation for removal. A recommendation for removal shall be forwarded to the governor for his consideration and action as provided by this subsection.

...(g) A majority of the members of the board constitutes a quorum for the transaction of business.

...(h) The board shall adopt and may amend necessary rules for the conduct of the authority's business.

...(i) The board shall elect a president, one or more vice-presidents, a secretary, a treasurer, and other officers as the members of the board consider necessary. The president and vice-president must be members of the board, but other officers are not required to be members of the board. The offices of the secretary and treasurer may be combined, and the offices of assistant secretary and assistant treasurer may be combined.

SECTION 7. INTEREST IN CONTRACT. A director who has a financial interest in a contract of the authority for the purchase, sale, lease, rental, or supply of property, including supplies, materials, and equipment, or the construction of facilities shall disclose that fact to the other members of the board and may not vote on or participate in discussions during board meetings on the acceptance of the contract. A financial interest of a director does not affect the validity of a contract if disclosure is made and the director with the financial interest does not vote on the question of entering into the contract.

SECTION 8. DIRECTOR'S COMPENSATION. (a) A director is entitled to receive \$25 a day and reimbursement for actual and necessary expenses incurred:

...(1) for each day he spends attending meetings of the board; and

...(2) for each day he spends attending to the business of the authority that is authorized by the board.

...(b) A director is not entitled to receive a per diem allowance for more than 50 days in any single calendar year.

SECTION 9. COMMITTEES. The board may appoint or establish committees from the membership of the board as necessary or desirable to assist in conducting the business of the authority. Subject to the applicable rules of

law on delegation of powers, the board may assign or delegate or provide for the assignment or delegation of any powers, duties, and functions to its committees as the board may provide by rule or resolution.

SECTION 10. EXECUTIVE DIRECTOR. (a) The board may employ an executive director and set his salary and other compensation by majority vote of the qualified directors.

...(b) The executive director is the chief executive officer of the authority.

...(c) Under policies established by the board, the executive director is responsible to the board for:

...(1) administering the directives of the board;

...(2) keeping the authority's records, including minutes of the meetings of the board and the executive committee:

...(3) coordinating with state, federal, and local agencies;

...(4) developing plans and programs for the approval of the board or the executive committee;

...(5) hiring, supervising, training, and discharging the authority's employees, as authorized by the board or the executive committee;

...(6) contracting for or retaining technical, scientific, legal, fiscal, and other professional services, as authorized by the board; and

...(7) performing any other duties assigned by the board.

...(d) The board may discharge the executive director on a majority vote of the qualified directors.

SECTION 11. DIRECTORS' AND EMPLOYEES' BONDS. (a) The executive director, the treasurer, and other officers, agents, and employees of the authority who have responsibilities that involve the collection, custody, or payment of any money of the authority shall execute a fidelity bond. The board shall approve the form, amount, and surety of the bond.

...(b) The authority shall pay the premiums on the bonds required under this Act.

SECTION 12. PRINCIPAL OFFICE. The authority shall maintain its principal office inside its boundaries.

SECTION 13. RECORDS. (a) The authority shall keep complete and accurate accounts of its business transactions in accordance with generally accepted methods of accounting.

...(b) The authority shall keep complete and accurate minutes of its meetings.

...(c) The authority shall keep its accounts, contracts, documents, minutes, and other records at its principal office.

...(d) Except as otherwise required by law, the authority shall not disclose any records that it has relating to trade secrets or economics of operation of any business or industry.

...(e) Except as provided by Subsection (d) of this section, the authority shall permit reasonable public inspection of its records during regular business hours under rules adopted by the board.

SECTION 14. SEAL. The authority shall adopt a seal.

SECTION 15. SUIT. (a) The authority may sue and be sued in the name of the authority.

...(b) Service of process may be accomplished by serving the president or vice-president of the board or the executive director.

...(c) All courts of this state shall take judicial notice of the establishment of the district.

SECTION 16. GENERAL POWERS AND DUTIES. (a) The authority shall administer this Act and shall use its facilities and powers to accomplish the purposes of this Act.

...(b) The authority may exercise the powers, rights, and privileges necessary or convenient for accomplishing the purposes of this Act.

...(c) The powers granted to the authority by this Act are cumulative of all powers granted by other laws that are applicable to the authority. However, the powers granted to the authority by this Act are not intended to restrict the powers of any conservation and reclamation district previously created within the basin or area of the authority under Article XVI, Section 59, of the Texas Constitution. It is the legislature's intent that the authority and those districts exercise their respective powers in a cooperative manner.

...(d) A district previously created under Article XVI, Section 59, or Article III, Sections 52(b)(1) and (2), of the

Texas Constitution may coordinate its plans with the authority and may enter into joint undertakings for the purposes for which the districts are created. However, those acts must be approved by a majority of the board of directors of the district and authority.

**SECTION 17. CONTROL AND USE OF WATERS.** (a) Subject to the constitution and other laws of this state and the continuing right of supervision of the state through the commission, the authority may exercise authority over the storm water and floodwater of the basin, subject to applicable provisions of the Water Code.

...(b) The authority may exercise the powers of control and use of the state's water in the manner and for the following purposes:

...(1) to provide for the control and coordination of water use in the basin as a unit;

...(2) to provide by adequate organization and administration for the preservation of the rights of the people of the different sections of the basin in the beneficial use of water;

...(3) to provide for conserving storm water, floodwater, and unappropriated flow of the basin, including the storage, control, transportation, treatment, and distribution of that water, and the prevention of the escape of water without the maximum of public service and for the prevention of devastation of land from recurrent overflows, and the protection of life and property in the river basin from uncontrolled floodwater;

...(4) to provide for the conservation of water essential for domestic and other water uses of the people of the basin, including necessary water supplies for cities, towns, and industrial districts;

...(5) to provide for the irrigation of land in the basin where irrigation is required for agricultural purposes or is considered helpful to more profitable agricultural production and for the equitable distribution of storm water, floodwater, and unappropriated flow water to the regional potential requirements for all uses;

...(6) to provide for the encouragement and development of drainage systems and provisions for drainage of land in the valleys of the basin needing drainage for profitable agricultural and livestock production and industrial activities, and other drainage of land for the most advantageous use;

...(7) to provide for the conservation of soil against destructive erosion, thereby preventing the increased flood menace incident to erosion;

...(8) to control and make available for use storm water, floodwater, and unappropriated flow water as authorized by the commission, in the development of commercial and industrial enterprises in all sections of the watershed area of the authority;

...(9) to provide for the control, storage, and use of storm water, floodwater, and unappropriated flow water in the development of hydroelectric power, where this use may be economically coordinated with other and superior uses, and subordinated to the uses declared by law to be superior;

...(10) to provide for each purpose and use for which storm water, floodwater, and unappropriated flow water when controlled and conserved may be used in the performance of a useful service as contemplated and authorized by the provisions of the constitution and laws of this state;

...(11) to control, store and preserve the water of the basin inside the boundaries of the authority for any useful purpose;

...(12) to use, distribute, and sell water for any beneficial purpose inside and outside the authority; and

...(13) to acquire water and water rights inside and outside the authority.

**SECTION 18. FORESTATION AND REFORESTATION.** The authority may forest and reforest and aid in the foresting and reforesting of the watershed area of the basin.

**SECTION 19. GROUNDWATER.** (a) The authority may conduct surveys and studies of the groundwater supplies in the authority for the purpose of determining the location and quantity of groundwater available, and to develop and ascertain other data and information that in the judgment of the board may be necessary to fully develop water uses from the groundwater in the authority.

...(b) Subject to the requirements of applicable laws and with the approval and under the supervision of the commission, the authority may appropriate storm water and floodwater to recharge underground freshwater-bearing sand and aquifers in the basin.

**SECTION 20. WATER QUALITY CONTROL.** The authority is a river authority for the purposes and definitions 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) as they apply to the authority. If one of those Acts conflicts with this Act, this Act prevails.

SECTION 21. SOLID WASTE. The authority may purchase, acquire, construct, maintain, and provide facilities, equipment, and disposal sites to furnish solid waste collection, transportation, treatment, and disposal services inside the authority, may charge for the services, and may enter into contracts for those services with any person.

SECTION 22. PARKS AND RECREATIONAL FACILITIES. The authority may acquire land adjacent to or in the basin, for park and recreational purposes, and may acquire, construct, and maintain park and recreational facilities on that land.

SECTION 23. PERMITS AND LICENSES. (a) The authority shall apply for any permits, licenses, franchises, and other grants of authority required from the commission.

...(b) The authority may apply for any permits, licenses, franchises, and financial assistance it may need from the department or any federal, state, or local governmental agency.

SECTION 24. SERVICE CONTRACTS AND CHARGES. (a) The authority may enter into service contracts and may adopt resolutions and orders establishing rates and providing for the collection of fees and charges for the sale or use of water, the services of water transmission, treatment, and storage facilities, solid and liquid waste collection, treatment and disposal facilities and services, the use of park and recreational facilities, the sale of power and electric energy, and any other services or facilities sold, furnished, or supplied by the authority.

...(b) The fees and charges shall be sufficient to produce revenues adequate to:

...(1) pay expenses necessary for the operation and maintenance of the property and facilities of the authority;

...(2) pay the principal of and interest on any bonds or other obligations issued by the authority when due and payable and to fulfill any reserve or other fund obligations of the authority in connection with the bonds or other obligations; and

...(3) pay any other expenses the board may consider necessary and proper for the operations of the authority.

SECTION 25. EMINENT DOMAIN. (a) The authority may acquire land inside and outside the authority to carry out the powers, rights, privileges, authority, and functions authorized by this Act by condemnation when the board determines, after notice and hearing, that it is necessary.

...(b) The right of eminent domain shall be exercised by the authority in the manner provided by Chapter 21, Property Code, except that the authority is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

...(c) If the authority, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or change in grade, or alternation of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, change in grade, or alteration of construction shall be accomplished at the sole expense of the authority. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

SECTION 26. ACQUISITION AND DISPOSITION OF PROPERTY. (a) The authority may purchase, lease, acquire by gift, maintain, use, and operate property of any kind inside or outside the authority, appropriate for the exercise of its powers or accomplishment of its purposes.

...(b) The authority also may sell any property or interest in property owned by the authority by installments or otherwise, including sales in any manner prescribed or authorized by Chapter 224, Acts of the 56th Legislature, Regular Session, 1959 (Article 1109j, Vernon's Texas Civil Statutes), Chapter 30, Water Code, and the Clean Air Financing Act (Article 4477-5a, Vernon's Texas Civil Statutes). The authority may also lease, exchange, or otherwise dispose of any property or interest in property.

SECTION 27. FACILITIES The authority may acquire, construct, extend, improve, maintain, reconstruct, use, and operate any facilities inside or outside the authority necessary or convenient to the exercise of its powers, rights, duties, and functions or accomplishments of its purposes.

SECTION 28. USE OF PUBLIC EASEMENTS. The authority may use any public roadways, streets, alleys, or public easements inside or outside the boundaries of the authority in the exercise of its powers or the accomplishment of its purposes without the necessity of securing a franchise.

SECTION 29. CONTRACTS GENERALLY. (a) The authority may enter into contracts and execute instruments that are necessary or convenient to the exercise of its power, rights, duties, and functions or the accomplishment of its purposes.

...(b) Notwithstanding any other law, the authority may undertake and carry out any activities, enter into contracts, loan agreements, leases, or installment sales agreements, and acquire, purchase, construct, own, operate, maintain, repair, improve, or extend, and loan, lease, sell, or otherwise dispose of, as the parties may agree, any facilities, plants, buildings, structures, equipment, and appliances, property or any interest in property, and any or all money or proceeds of bonds and other obligations. This may be accomplished by such methods as loan payments, rentals, sales, and installment sales.

...(c) All persons are authorized to contract with the authority 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 Financing Act (Article 4477-7a, Vernon's Texas Civil Statutes), with respect to water, waste, pollution control, or any other facilities and any services provided by the authority. A public agency also may enter into and execute such a contract with the authority and may determine, agree, and pledge that all or any part of its payments under the contract is payable from the source described in Section 30.030(c), Water Code, subject only to the authorization of the contract, pledge, and payments by the governing body of the public agency. A public agency also may use and pledge any other available revenues or resources for payment of amounts due under those contracts, as an additional source or sources of payment or as the sole source or sources of payment.

...(d) A 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 authority, from its inhabitants or from any users or beneficiaries of the utility, services, or facilities, including specifically water charges and garbage collection or handling fees and other fees or charges, and may use and pledge those funds to make payments to the authority required under the contract, and may covenant to do so in amounts sufficient to make all or any part of those payments to the authority when due. If the parties agree in the contract, those payments constitute an expense of operation of any facilities or utility operated by the public agency.

SECTION 30. BIDS AND CONTRACT CONDITIONS. (a) A construction, maintenance, operation, or repair contract, a contract for the purchase of material, equipment, or supplies, or a contract for services other than technical, scientific, legal, fiscal, or other professional services, that will require an estimated expenditure of more than \$10,000, or is for a term of six months or more, shall be awarded to the lowest and best bidder. A notice to bidders shall be published once each week for three consecutive weeks before the date set for awarding the contract. If the board finds that an extreme emergency exists, the board may award contracts necessary to protect and preserve the public health and welfare or the property of the authority without using the bidding procedures.

...(b) The notice of bids is sufficient if it states the time and place at which the bids will be opened, the general nature of the work to be done, the material, equipment, or supplies to be purchased, or the nonprofessional services to be rendered, and states the terms on which copies of the plans, specifications, or other pertinent information may be obtained.

...(c) Notice shall be published in a newspaper with general circulation in the authority and may also be published in any other appropriate publication.

...(d) A person who desires to bid on the construction of any work or project that is advertised for bids shall, on written application to the authority, be furnished with a copy of the plans and specifications or other engineering and architectural documents showing the work to be done and all of the details of the work to be done. The authority may make a charge to cover the cost of making the copy. Bids must be in writing, and sealed and delivered to the authority, and must be accompanied by a certified check on a responsible bank in this state or, at the discretion of the authority, a bid bond from a company approved by the authority, for at least one percent of the total amount bid. The check or bond is forfeited to the authority if the successful bidder fails or refuses to enter into a proper contract or fails or refuses to furnish bond as required by law. Any or all bids may be rejected by the authority, and the authority may waive any irregularity in the bids.

...(e) Bids shall be opened at the place specified in the published notice and shall be announced by the authority.

The place where the bids are opened and announced shall be open to the public. The award of the contract shall be made by the board.

...(f) The contract price of all construction contracts of the authority may be paid in partial payment as the work progresses, but the payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the report of the engineer of the authority. During the progress of the work, the executive director shall inspect the construction or have the construction inspected by the authority's engineer or his assistants. On certification of the executive director and the authority's engineer of the completion of the contract in accordance with its terms, and in the case of any construction contract for which notice to bidders is required by this Act, on approval of the board, the board shall draw a warrant on its depository to pay the balance due on the contract.

...(g) The person, firm, or corporation with whom the contract is made shall provide the performance and payment bonds required by law.

...(h) This section does not prohibit the authority from purchasing or acquiring land or interests in land from any person, or from acquiring, constructing, or improving pollution control or waste collection and disposal facilities as provided by Chapter 30, Water Code, the Clean Air Financing Act (Article 4477-5a, Vernon's Texas Civil Statutes), or other applicable laws, or purchasing or acquiring surplus property from a governmental entity by negotiated contract and without necessity for advertising for bids.

...(i) An officer, agent, or employee of the authority who is financially interested in a contract shall disclose that fact to the board before the board votes on the acceptance of the contract.

**SECTION 31. AUTHORITY RULES.** (a) The authority may adopt and enforce rules reasonably required to carry out this Act.

...(b) In adopting rules, the board shall comply, as appropriate, with the requirements of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

...(c) The board shall print its rules and furnish copies to any person on written request.

**SECTION 32. PENALTIES.** (a) A person who violates a rule or order of the authority is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation.

...(b) The authority may sue to recover the penalty in a district court in the county in which the violation occurred. Penalties shall be paid to the authority.

...(c) The authority may sue for injunctive relief in a district court in the county in which the violation of any rule or orders occurred or is threatened.

...(d) The authority may sue for injunctive relief and penalties in the same proceeding.

**SECTION 33. COURT REVIEW.** (a) A person who is adversely affected by a rule or order of the authority may sue the authority in a district court to set aside the rule or order before the 31st day after the day on which the rule or order takes effect.

...(b) Venue for suits under Subsection (a) of this section is in any county located wholly or partially in the authority.

**SECTION 34. SURVEYS AND ENGINEERING INVESTIGATIONS.** The authority may make surveys and engineering investigations to develop information for its use, and the board may make and determine plans necessary to accomplish the purposes for which the authority is created and may carry out the plans.

**SECTION 35. ACCESS.** (a) To provide for the safety and welfare of persons and their property or for the protection and security of the property and facilities of the authority, the board may adopt rules with respect to the property of the authority and any water reservoir or dam, the construction, operation, or management of which is participated in by the authority, to control and regulate ingress, egress, and use, and the operation of land and water vehicles.

...(b) All public roads, streets, and state highways now traversing the areas to be covered by any impounded water shall remain open as a way of public passing to and from the lakes created, unless changed by the authority.

**SECTION 36. USE OF BED AND BANKS OF SULPHUR RIVER AND ITS TRIBUTARIES.** Subject to the approval of the commission, the authority may use the beds and banks of the Sulphur River and its tributary

streams for any purposes necessary to accomplish the plans of the authority for storing, controlling conserving, transporting, and distributing storm water, floodwater, and appropriated flow waters for useful purposes.

**SECTION 37. WORK WITH DEVELOPMENT BOARD.** The authority has and may exercise all the powers vested in political subdivisions under Title 2, Water Code, including the powers necessary to enable the authority to participate in the programs administered by the department for the acquisition and development of facilities, the sale or lease of facilities, financial assistance to political subdivisions, and other programs.

**SECTION 38. GENERAL PROVISIONS.** (a) the board may provide for any expenditures it considers essential or useful in the maintenance, operation, and administration of the authority.

...(b) The authority may perform any other acts or things necessary or convenient to the exercise of the powers, rights, privileges, or functions conferred by this Act or other laws.

**SECTION 39. LIMITATIONS ON AUTHORITY AND SUPERVISION BY COMMISSION.** (a) The powers and duties granted and prescribed by this Act are taken subject to all legislative declarations of public policy in the maximum use of the storm water, floodwater, and unappropriated flow water of the basin for the purposes for which the authority is created and subject to the continuing right of supervision of the state through the commission.

...(b) The commission shall approve or refuse to approve the adequacy of any plan or plans for flood control or conservation improvement purposes devised by the authority for the achievement of the plans and purposes intended in the creation of the authority and that contemplate improvements supervised by the commission under general law.

**SECTION 40. DISBURSEMENT OF FUNDS.** The authority's money may be disbursed only by check, draft, order, or other instrument, signed by the person or persons authorized in the board's rules, or by resolution of the board.

**SECTION 41. FEES AND CHARGES.** The authority shall establish fees and charges that may not be higher than necessary to fulfill the obligations imposed by this Act.

**SECTION 42. LOANS AND GRANTS.** (a) The authority may borrow money and accept grants and donations for its corporate purposes from private sources, the United States, the state, local governments, or any other person. The authority may enter into any agreement in connection with the loan, grant, or donation that is not in conflict with the constitution and laws of this state.

...(b) The sources of any funds accepted by the authority are public information.

**SECTION 43. FUNDS FOR SURVEYS AND DATA COLLECTION.** The authority may apply to the state, the United States, or any other person for funds necessary to secure engineering surveys and the compilation and collection of data relating to regional and general conditions entering into and influencing the character and the extent of the improvements necessary to accomplish the storage, control, transportation, treatment, conservation, and equitable distribution to the greatest public advantage of the storm water, floodwater, and normal flow that is stored and controlled, and to accomplish or carry out any of the other purposes of this Act. The authority shall request an amount it considers sufficient, and may make the necessary agreements with the party providing the funds, and may appropriate the amount of the estimated equitable contribution of the costs of developing essential engineering data.

**SECTION 44. TRUST FUNDS.** Money collected by or donated, granted, loaned, or advanced to the authority is declared to be trust funds for the purposes provided by the Act.

**SECTION 45. INVESTMENT OF FUNDS.** (a) Funds in the treasury that are not required for current payment of obligations of the authority or for sinking funds and that the board considers available for investment may be invested or reinvested by the authority in:

...(1) direct obligations of or obligations the principal and interest of which are guaranteed by the United States;

...(2) direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Banks,



Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, and Banks for Cooperatives;

...(3) certificates of deposit of any bank or trust company the deposits of which are fully secured by a pledge of securities of any of the institutions specified in this subsection;

...(4) any other securities eligible for investment under other laws; or

...(5) any combination of the investments listed in this subsection.

...(b) The type and maturity of investments made under this section shall be determined by the board which, in the case of funds established in connection with the authorization of bonds or other obligations, shall include appropriate provisions relating to those investments in the resolution relating to the issuance of those bonds. Income and profits on such investments shall be applied as directed by the board.

SECTION 46. AUDIT. (a) The fiscal year of the authority ends on August 31 of each year.

...(b) On or before January 1 following the close of each fiscal year, the state auditor shall audit the books and accounts of the authority for the preceding fiscal year.

...(c) The audit shall state the amount of money received by the authority under this Act during the preceding fiscal year, and how, to whom, and for what purpose the money was spent.

...(d) A copy of the audit report shall be filed with the authority, the governor, the lieutenant governor, the speaker of the house of representatives, the attorney general, the commission, and the comptroller of public accounts.

...(e) After completing the audit report, the state auditor shall prepare a statement showing the actual cost of the audit and shall certify the statement to the governor for his approval. After the statement is approved by the governor, it shall be delivered to the authority. The authority shall pay for the cost of the audit by depositing the money for the audit with the state treasurer, who shall place the money in the general revenue fund.

...(f) This section does not prohibit the authority from employing the professional services of accountants for any purposes.

SECTION 47. DEPOSITORY BANKS. (a) The board shall designate one or more banks inside or outside the authority to serve as depository for the funds of the authority.

...(b) All money of the authority shall be deposited in the depository bank or banks except that bond proceeds or proceeds of other obligations, money pledged to pay those obligations, money placed in special funds, and money remitted to a bank of payment for the payment of the principal of and interest on obligations, may be handled as provided in a trust indenture or resolution.

...(c) To the extent that funds in the depository banks or a trustee bank are not invested or insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

...(d) Before designating a depository bank or banks, the board shall issue a notice stating the time and place at which the board will meet to designate the depositories and inviting the banks to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The notice shall be published one time in a newspaper or newspapers of general circulation in the authority and specified by the board, or in lieu of publication, a copy of the notice may be mailed to each bank inside the boundaries of the authority.

...(e) At the time stated in the notice, the board shall consider the applications and the management and conditions of the banks filing them, and shall designate as depositories the bank or banks that offer the most favorable terms and conditions for the handling of the funds of the authority and that the board finds have proper management and are in condition to warrant handling of authority funds. Membership on the board of an officer or director of a bank does not disqualify the bank from being designated as depository.

...(f) If no applications are received by the time stated in the notice, the board shall designate a bank or banks inside or outside the authority as depository on terms and conditions the board considers advantageous to the authority.

SECTION 48. BONDS. (a) For the purpose of carrying out any power or authority provided by this Act, including the expense of preparing the master plan and the payment of engineering and other expenses, the authority may issue its bonds or other obligations in one general class secured by a pledge of all or part of the revenues accruing to the authority, including without limitations those revenues received from sale of water or other products, rendition of service, tolls, charges, and from all other sources other than ad valorem taxes.

...(b) The bonds shall be authorized by resolution of the board, issued in the name of the authority, signed by the

president or any vice-president, and attested by the secretary. The bonds shall bear the seal of the authority. If authorized by the board, the signatures of the president or any vice-president, and the secretary or of both may be printed or lithographed on the obligations, and the seal of the authority may be impressed on the obligations or may be printed or lithographed on the obligations.

...(c) The obligations shall be in the form prescribed by the board, shall be in any denomination or denominations, shall mature serially or otherwise and not to exceed 50 years from their date, shall bear interest according to law, and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable. The board may make the bonds callable before maturity at the times and prices prescribed in the bonds, and the bonds may be made registrable as to principal or as to both principal and interest. The obligations may be further secured by a trust indenture with a corporate trustee.

...(d) Obligations may be issued in more than one series, and from time to time, as required for carrying out the purposes of this Act. A pledge of revenue may reserve the right, under specified conditions, to issue additional obligations that will be on a parity with or subordinate to the obligations then being issued.

...(e) The authority is an "issuer" for the purpose of Chapter 656, Acts of the 65th Legislature, Regular Session, 1983, (Article 717q, Vernon's Texas Civil Statutes), and that law applies to the authority.

...(f) The resolution authorizing the obligations or the trust indenture further securing the obligations may specify additional provisions that constitute a contract between the authority and the owners of those obligations. The board may provide for the additional provisions, including a corporate trustee or receiver provided by the authority to take possession of facilities of the authority in the event of default on the part of the authority in fulfilling the covenants.

**SECTION 49. REFUNDING BONDS.** The authority may issue refunding bonds to refund outstanding obligations issued under this Act. Refunding bonds may be issued by the authority as provided by Chapter 503, Acts of the 54th Legislature Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes). Obligations issued at any time by the authority also may be refunded in the manner provided by any other applicable law.

**SECTION 50. APPROVAL AND REGISTRATION OF BONDS.** (a) After any bonds, including refunding bonds, are authorized the authority, the bonds and the record relating to their issuance shall be submitted to the authority, the bonds and the record relating to their issuance shall be submitted to the attorney general for his examination as to the validity of those bonds. If obligations are to be issued to finance in whole or in part water-using facilities, before giving his approval the attorney general shall be furnished a resolution from the commission certifying that the authority has the necessary water rights authorizing it to impound and appropriate the water to be used by the project. If the obligations recite that they are secured by a pledge of the proceeds of a contract made between the authority and any public agency, a copy of the contract and the proceedings of the public agency authorizing the contract also shall be submitted to the attorney general.

...(b) If the attorney general finds that the bonds have been authorized and the contracts have been made as provided by the constitution and laws of this state, he shall approve the obligations and the contracts and the obligations then shall be registered by the comptroller of public accounts.

...(c) After approval and registration, the bonds and contracts are valid and binding and are incontestable for any cause.

**SECTION 51. BONDS AS INVESTMENTS OR SECURITY FOR DEPOSITS.** (a) Authority 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 fund of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

...(b) Authority bonds are eligible to secure deposits of public funds of the state and cities, counties, school

districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value.

SECTION 52. LEGISLATIVE FINDINGS. The legislature finds and determines that the boundaries of the Sulphur River Basin Authority form a closure. If any mistake is made in the description of the boundaries in the legislative process, or a mistake is otherwise made, it in no way affects the organization, existence, and validity of the authority, or the right of the authority to issue any types of bonds, including refunding bonds, for the purpose for which the authority is created, or to pay the principal of or interest on the obligations, or in any other manner affects the legality or operation of the authority or its governing body.

SECTION 53. 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 the Senate on May 29, 1985, by a viva-viva vote; passed the House on May 29, 1985, by the following vote: Yeas 139, Nays 2, one present not voting

Approved: June 15, 1985

Effective: August 29, 1985