

The Gulf Coast Water Authority Enabling Legislation

Originally Codified as Article 8280-339, Vernon's Texas Civil Statutes, Chapter 712, Acts of the 59th Legislature of the State of Texas, Regular Session, 1965 (H.B. No. 1127)*.

And Amended By:

Chapter 399, Acts of the 61st Legislature of the State of Texas, Regular Session, 1969 (H.B. No. 1383);

Chapter 708, Acts of the 66th Legislature of the State of Texas, Regular Session, 1979 (H.B. No. 165);

Chapter 1049, Acts of the 68th Legislature of the State of Texas, Regular Session, 1983 (H.B. No. 2343);

Chapter 818, Acts of the 72nd Legislature of the State of Texas, Regular Session, 1991 (H.B. No. 2837);

Chapter 683, Acts of the 73rd Legislature of the State of Texas, Regular Session, 1993 (H.B. No. 2177);

Chapter 1259, Acts of the 82nd Legislature of the State of Texas, Regular Session, 2011 (S.B. No. 683);

Acts of the 84th Legislature of the State of Texas, Regular Session, 2015 (H.B. 4168);

Acts of the 86th Legislature of the State of Texas, Regular Session, 2019 (H.B. 4690).

**H.B. No. 1127 was passed by the House (145-2) on May 20, 1965, and by the Senate (31-0) on May 26, 1965.*

****As compiled by Scott Bounds, Olson & Olson, L.L.P.,
June 5, 2019**

AN ACT

creating a Conservation and Reclamation District under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as “Galveston County Water Authority of Galveston County, Texas”; prescribing its rights, powers, privileges, duties; providing said District shall have no power to levy taxes; providing other limitations on the District’s powers; providing that the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its governing body; providing that its bonds are legal and authorized investments; containing provisions relating to revenue bonds of the District; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Sec. 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated, to be known as the Gulf Coast Water Authority, hereinafter referred to as “District,” which shall be a governmental agency and body politic and corporate and a municipal corporation.

Sec. 2. The District’s territory is coextensive with the boundaries of Brazoria, Fort Bend, and Galveston Counties.

Sec. 3. Except as expressly limited by this Act, the District shall have and exercise and is hereby vested with all rights, powers, privileges, and authority conferred by the General Laws of this State now in force or hereafter enacted applicable to municipal utility districts created under authority of Section 59 of Article XVI, Constitution of Texas including without limitation those conferred by Chapters 49 and 54, Water Code, as amended, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have, and is authorized to exercise, the following rights, powers, privileges and functions:

(a) the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws and to exercise the power of eminent domain for such purposes; provided, however, that the District shall not have the power of eminent domain as to all or any part of the water supply, property, works or facilities of any private person or persons, or of any private or public corporation or association engaged in the business of supplying water in Brazoria County, Fort Bend County, or Galveston County, Texas, to any class of consumers for any use upon the effective date of this Act, but this provision shall not restrict the power of the District to acquire necessary crossing easements and rights of way;

(b) to conserve, store, transport, treat and purify, distribute, sell and deliver water, both surface and underground, to persons, corporations, both public and private, political subdivisions of the State and others, and to purchase, construct or lease all property, works and facilities, both within and without the District, necessary or useful for such purposes;

(c) to acquire water supplies from sources both within or without the boundaries of the District and to sell, transport and deliver water to customers situated within or without the District and to acquire all properties and facilities necessary or useful for such purposes, and for any or all of such purposes to enter into contracts with persons, corporations, both public and private, and political subdivisions of the State for such periods of time and on such terms and conditions as the Board of Directors may deem desirable;

(d) subject to the provisions of this Act, to sell, lease, or exchange any property of any kind, or any interest therein, which is not necessary to the carrying on of the business of the District or the sale, lease or exchange of which, in the judgment of the Board of Directors, is necessary for the exercise of the powers, rights, privileges, and functions conferred upon the District by this Act or by Chapters 49 and 54, Water Code, as amended;

(e) subject to the provisions of this Act, to acquire by purchase, lease, gift, or otherwise, and to maintain, use, and operate any and all property of any kind, or any interest therein, within or without the boundaries of the District, necessary to the exercise of the powers, rights, privileges, and functions conferred by the Act or by Chapters 49 and 54, Water Code, as amended;

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

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

(h) to adopt, use and alter a corporate seal;

(i) to invest and reinvest its funds;

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

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

(l) to make contracts and to execute instruments convenient or necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act or Chapters 49 and 54, Water Code, as amended, for such term and with such provisions as the Board of Directors may determine to be in the best interests of the District, including, without in any way limiting the generality of the foregoing, contracts with persons including the State of Texas, the United States of America and any corporation or agency thereof and districts, cities, towns, persons, organizations, firms, corporations, or other entities as the Board of Directors may deem necessary or proper for or in connection with any of its corporate purposes;

(m) to borrow money for its corporate purposes and, without limiting the generality of the foregoing, to borrow money, apply for and receive loans, secure obligations under a loan or

other contract for borrowed money with a pledge of district revenues or the proceeds of future borrowings, and accept grants or contributions, directly or indirectly, from persons, including the State of Texas, the United States of America, or from any corporation, agency, or entity created or designated by the State of Texas or the United States of America, and in connection with any such loan, grant, or contribution, to enter into such agreements as the State of Texas, the United States of America, or any such corporation, agency, or entity may require; and to make and issue its negotiable bonds or notes for money borrowed, in the manner and to the extent provided in this Act, and to refund or refinance any outstanding bonds, notes, or loans, and to make and issue its negotiable bonds or notes therefore in the manner provided in this Act.

Sec. 3A. In connection with the acquisition of water, or the treatment, storage, or transportation of water, the district may enter into retail service agreements within the Electric Reliability Council of Texas for the purchase of electricity for the district's own use and may sell electricity in a sale or resale only by way of a registered power marketer or power generation company in accordance with applicable public utility commission rules and requirements of the Electric Reliability Council of Texas. An agreement entered into under this section may provide for a term of years and include provisions that the Board of Directors determines are in the best interest of the district, including provisions for the posting of collateral or payment of an early termination amount in the event of early termination.

Sec. 3B. (a) In this section, "person" includes an individual, entity, partnership, or corporation. The term does not include a political subdivision or public agency.

(b) This section does not apply to a contract for architectural or engineering services. Section 2254.004, Government Code, applies to the procurement of architectural or engineering services.

(c) Competitive bidding and contract procurement or delivery requirements otherwise applicable to the District do not apply to a contract or agreement made by the District with a person if:

(1) the contract or agreement relates to a project for the acquisition or construction of equipment or facilities for the production, treatment, transmission, or delivery of water; and

(2) payments made under the contract or agreement are for amounts substantially sufficient to finance a project described in Subdivision (1) of this subsection.

Sec. 3C. (a) The Board by resolution may authorize the creation of a nonprofit corporation to assist and act for the District in implementing a project or providing a service authorized by this Act.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this Act.

(c) The Board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve at the will of the District and in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

(d) The nonprofit corporation may not:

- (1) participate in a project that the District is not authorized to participate in;
- (2) impose taxes; or
- (3) acquire, construct, or operate parks or recreational facilities.

Sec. 4. (a) The District shall have no power or authority to levy and collect taxes on any property real, personal or mixed, within the boundaries of said District, nor shall the District have power or authority to issue bonds or create indebtedness which would in any way be payable from ad valorem taxes levied by the District upon property within said District; and provided further that said District shall have none of the powers conferred by General Law for the purposes of the collection, transportation, processing, disposal and control of domestic, industrial or communal wastes, and the gathering, conducting, directing and controlling of local storm waters, or other local harmful excesses of water except as directly related to the production and purification of water for agricultural, municipal, or industrial purposes, including the ownership, lease, or operation of a municipal wastewater treatment facility in which the effluent is used by the District for water reuse supply.

(b) Nothing herein shall be construed as impairing or affecting the powers, authority, rights, or duties of any municipal corporation or conservation and reclamation district heretofore or hereafter created within, or partially within, the boundaries of the District or to require any such corporation or district to contract with the District for its water supply.

(c) In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

(d) Nothing herein shall be construed as conferring any water rights on the District or as fixing any priority of rights.

(e) Nothing herein shall be construed as authorizing the District to make any regulation of the withdrawal of underground water.

(f) The powers, rights, privileges, and functions conferred upon the District shall be subject to the continuing rights of supervision by the State, as provided by the Water Code, as amended.

Sec. 5. (a) The management and control of the District is hereby vested in a Board of 10 directors.

(b) Each director must be a resident of this state.

(c) Vacancies on the Board of Directors, whether by death, resignation or termination of the term of office, shall be filled by appointment by the commissioners court that appointed the director for the unexpired term of the director.

(d) A director may be removed by the commissioners court that appointed the director for inefficiency, neglect of duty, or misconduct of office. The commissioners court must provide a director removed under this section written notice not later than the 30th day after the date the decision to remove is made and an opportunity to be heard in person or by counsel in a public hearing.

(e) All terms of office shall be for a period of two (2) years. Terms shall be staggered ending on August 31 of the appropriate year.

(f) Six directors constitute a quorum. Except as otherwise provided, a majority of those directors present and qualified to vote is sufficient for final action on a matter before the Board.

Sec. 5(a). The directors of the district shall be appointed as follows:

(1) five directors appointed by the Galveston County Commissioners Court, one of whom represents municipal interests, two of whom represent industrial interests, and two of whom represent the county at large;

(2) two directors appointed by the Fort Bend County Commissioners Court, one of whom represents municipal interests, and one of whom represents the county at large; and

(3) three directors appointed by the Brazoria County Commissioners Court, one of whom represents agricultural interests, one of whom represents municipal interests, and one of whom represents industrial interests.

Sec. 5(b). A director appointed under Section 5(a) to represent municipal or industrial interests must be a customer of or represent an entity that is a customer of the district.

Sec. 5C. (a) Chapter 171, Local Government Code, does not apply to a director appointed to represent agricultural or industrial interests.

(b) A director who has a financial interest in a contract considered by the District for the purchase of property or the construction of a facility must disclose the interest to the other directors and may not vote on the contract.

Sec. 5D. (a) The Board may hold an open or closed meeting by telephone conference call if at least five directors are present at the location where the meeting of the Board is held. A meeting held by telephone conference call is subject to the same notice requirements as other Board meetings and must be recorded. Each person who speaks in a meeting held by telephone

conference call must be clearly identified. A director participating in a meeting held by telephone conference call is considered absent from any part of the meeting during which audio communication is lost.

(b) The authority to hold a meeting held by telephone conference call described by this section is in addition to authority described by Chapter 551, Government Code.

Sec. 5E. If the Board employs a general manager, the general manager is the chief executive officer of the District.

Sec. 5F. The District is not required to provide notice for the sale or disposal of District personal property if the personal property has a value of less than \$25,000.

Sec. 5G. (a) The District may enter into a contract related to a water project located outside the District. The District may enter into a local agreement with a political subdivision for a purpose related to a water project.

(b) A contract under this section may use money appropriated by a political subdivision that is a party to the contract to pay for pre-development costs, engineering, surveys, and the collection and compilation of data relating to conditions influencing determinations about the character and extent of proposed improvements, works, and facilities for the accomplishment of District purposes.

(c) The District may contract or agree with an entity appropriating money under this section to receive a loan or money from other sources in return for services described by Subsection (a) of this section. The contract or agreement may provide for the repayment by the District of money advanced as a loan from project revenues, bond proceeds, or other available money.

(d) The District and a state agency or political subdivision may enter into a contract to jointly pay all or part of the cost of a water project or the operation of a water project in the same way that a political subdivision may contract with a state agency or political subdivision under Chapter 472, Transportation Code, to jointly pay all or part of the cost associated with a state or local highway, turnpike, road, or street project.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, village, counties, school districts, or other political corporations or subdivision of State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons pertinent thereto.

Sec. 7. The District shall have power and is hereby authorized to issue, from time to time, bonds as herein authorized for any of its corporate purposes. Such bonds may either be (1) sold for cash, at public or private sale, at such price or prices as the Board shall determine, provided that the net effective interest rate, recalculated in accordance with Chapter 1204, Government Code, or (2) issued on such terms as the Board of Directors shall determine in exchange for property of any kind, real, personal, or mixed, on any interest therein which the Board shall deem necessary for any such corporate purposes, or (3) issued in exchange for like principal amounts of other obligations of the District, matured or unmatured. The proceeds of sale of such bonds shall be deposited in such bank or banks or trust company or trust companies, and shall be sold out pursuant to such terms and conditions, as may be agreed upon between the District and the purchasers of such bonds. All such bonds shall be authorized by resolution or resolutions of the Board of directors, and shall bear such date or dates, mature at such time or times, bear interest, payable annually, semiannually, or otherwise, be in such denominations, 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, be executed in such manner and be payable at such place or places within or without the State of Texas, as such resolution or resolutions may provide. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the District and the holders thereof from time to time:

(a) reserving the right to redeem such bonds or requiring the redemption of such bonds, at such time or times, in such amounts and at such prices, as may be provided;

(b) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof;

(c) pledging to secure the payment of the principal of and interest on such bonds and of the sinking fund or reserve fund payments agreed to be made in respect of such bonds all or any part of the gross or new revenues thereafter received by the District respect of the property, real, personal, or mixes, to be acquired and/or constructed with such bonds or the proceeds thereof, or all or any part of the gross or net revenues thereafter received by the District from whatever source derived;

(d) prescribing the purposes to which such bonds or any bonds thereafter to be issued, or the proceeds thereof, may be applied;

(e) agreeing to fix and collect rates and charges sufficient to produce revenues adequate to pay (1) all expenses necessary to the operation and maintenance and replacements and additions to the properties and facilities of the District; (2) the principal of, and the interest and premium, if any, on bonds issued under this Act as and when the same became due and payable; (3) all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds, out of such revenues as and when the same became due and payable, and to fulfill the terms of any agreements made with the holders of such bonds and/or with any person on their behalf and to discharge all other lawful obligations of the district as and when the same become due;

(f) prescribing limitations upon the issuance of additional bonds and subordinate lien bonds and upon the agreements which may be made with the purchasers and successive holders thereof;

(g) with regard to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the District and carrying of insurance upon all or any part of said properties covering loss or damage or loss of use and occupancy resulting from specified risks;

(h) fixing the procedure, if any, by which, if the District shall so desire, the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(i) for the execution and delivery by the District to a bank or trust company authorized by law to accept trusts, or to the United State of American or any officer or agency thereof, of indentures and agreements for the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements; and

(j) such other provisions, as the Board may approve.

(k) The Board may declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the District or to meet any other needs of the District and may issue bond anticipation notes or enter into a loan to pay the costs to meet the emergency need. A loan under this subsection may be secured by a pledge of and made payable from district revenues or the proceeds of a future series of bonds. Bond anticipation notes may bear interest at any rate or rates not to exceed 10 percent and shall mature within one (1) year of their date. The bond anticipation notes so issued will be taken up with the proceeds of bonds, or the bonds may be issued and delivered in exchange for and in substitution of such notes.

(l) Before any bonds shall be sold or exchanged or substituted by the District, a certified copy of the proceedings of the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of the State of Texas may require, shall be submitted to the Attorney General, and if he shall find such bonds have been issued in accordance with law, and if he shall approve such bonds, he shall execute a certificate to that effect which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller, who shall so register the same if the Attorney General shall have filed with the Comptroller his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided.

(m) All bonds approved by the Attorney General as aforesaid, and registered by the comptroller as aforesaid, and issued in accordance with the proceedings so approved, shall be valid and binding obligations of the district and shall be incontestable for any cause from and after the time of such registration.

(n) If any bonds recite that they are secured by a pledge of the proceeds of a contract, lease, sale, or other agreement (herein called "contract"), a copy of such contract and the proceedings of the contracting parties will also be submitted to the Attorney General. If such bonds have been authorized and such contracts made in compliance with law, the Attorney General shall approve the bonds and contracts, and the bonds shall then be registered by the Comptroller of Public Accounts. When so approved, such bonds and the contracts shall be valid and binding and shall be incontestable for any cause from and after the time of such registration.

(o) The District is authorized to make and issue bonds (herein called "refunding bonds") for the purpose of refunding or refinancing any outstanding bonds or notes authorized and issued by the District pursuant to this Act or other law (herein called "bonds") and the interest and premium, if any, thereon to maturity or on any earlier redemption date specified in the resolution authorizing the issuance of the refunding bonds. Such refunding bonds may be issued to refund more than one series of outstanding bonds, may combine the pledges of the outstanding bonds for the security of the refunding bonds, or may be secured by other or additional revenues. All provisions of this Act with reference to the issuance of bonds, the terms and provisions thereof, their approval by the Attorney General, and the remedies of the bondholders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing the issuance of refunding bonds may provide that they shall be sold and the proceeds thereof deposited in the places at which the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest and premium, if any, on the original bonds to their maturity date or specified earlier redemption date, and the comptroller will register them without concurrent surrender and cancellation of the original bonds. The District may also refund any outstanding bonds in the manner provided by any applicable General Law.

(p) All bonds issued by the District pursuant to the provisions of this Act shall constitute investment securities within the meaning of the Uniform Commercial Code.

(q) This Act, without reference to other statutes of the State of Texas, shall constitute full authority for the authorization and issuance of bonds hereunder, and no other Act or law with regard to the authorization or issuance of obligations or the deposit of the proceeds thereof, or in any impeding or restricting the carrying out of the acts herein authorized to be done shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto.

Sec. 8. (a) When any of such revenues are pledged to the payment of any bonds issued by said District or loans received by the District, it shall be the right and duty of the District's Board of Directors to cause to be fixed, maintained and enforced charges, fees or tolls for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the order or orders authorizing the issuance of said bonds.

(b) Regardless of whether the revenues are pledged to the payment of bonds, the District shall have the right to impose penalties for failure to pay, when due, such charges, fees or tolls.

Sec. 9. Upon the adoption of this Act, said District shall be a fully created and established conservation and reclamation district, but having the limitations on its powers, as hereinbefore set out in this Act.

Sec. 10. As soon as practicable after the qualification of the first Board of Directors of said District, and from time to time thereafter the Board of Directors shall by resolution designate one or more banks to serve as the District's depository, and all funds of said District shall be secured in the manner provided for the security of county funds.

Sec. 11. The Legislature hereby exercises the authority conferred upon it by Section 54 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provision; finds that all of the land and other property included in the area and boundaries of the District are, and will be benefited by the improvements that the District will purchase, construct or otherwise acquire; and that the District is created to serve a public use and benefit; and declares the District to be a governmental agency, a body politic and corporate and a municipal corporation.

Sec. 12. If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part this Act to other persons or circumstances shall not be affected thereby.

Sec. 13. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 14. The fact that the creation of such District will result in material benefit to the State of Texas and to the land and other property included in said District and will promote effectively the conservation of water of the State of Texas, creates an emergency and an imperative public necessity requiring that the Constitutional Rule that bills be read on three several days in each House be suspended; and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.