

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

SENATE BILL 459

5 By: Senator Faris
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE REGIONAL WATER DISTRIBUTION
10 DISTRICT ACT; AND FOR OTHER PURPOSES.
11

Subtitle

13 AN ACT TO AMEND THE REGIONAL WATER
14 DISTRIBUTION DISTRICT ACT.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code 14-116-102 is amended to read as follows:
20 14-116-102. Purpose.

21 Public nonprofit regional water distribution districts may be organized
22 under this chapter for any one (1) or more of the following purposes:

23 (1) Acquisition of water from wells, lakes, rivers, tributaries, or
24 streams of or bordering this state or from existing reservoirs heretofore
25 created by the construction of dams by or under the direction and supervision
26 of the United States Army Corps of Engineers;

27 (2) Acquisition of water, water storage facilities, and the storage of
28 the water in reservoirs created by the construction of multipurpose dams by or
29 under the direction and supervision of the United States Army Corps of
30 Engineers, or by the water district with federal financial or other assistance
31 furnished by the United States Secretary of Agriculture under the provisions
32 of the Watershed Protection and Flood Prevention Act or any other federal law;

33 (3) Purification, treatment, and processing of the water;

34 (4) Furnishing the water to persons desiring it;

35 (5) Assisting in the installation and operation of the water and
36 transportation facilities of persons who are furnished water by the water

1 district and the acquisition, supply, or installation of equipment necessary
 2 therefor;

3 (6) Transportation and delivery of the water to persons furnished it by
 4 the water district;

5 (7) In the case of a district in existence on January 1, 2001, other
 6 than a district the lands within which are subject to assessment under §§ 14-
 7 116-601 through 14-116-611, owning, acquiring, operating, constructing,
 8 equipping, improving, expanding, contracting, concerning, and otherwise
 9 dealing in and with regard to properties, real, personal, or mixed, tangible
 10 and intangible, for the purpose of the collecting, transporting, treating and
 11 disposing of sewage and liquid waste, industrial, commercial, and residential;
 12 and

13 (8) Carrying out the functions as may be related and appropriate to the
 14 accomplishment of the purposes enumerated in this section.

15
 16 SECTION 2. Arkansas Code 14-116-402 is amended to read as follows:

17 14-116-402. District powers.

18 Each water district shall have power to:

19 (1) Sue and be sued, complain and defend, in the district's name;

20 (2) Adopt a seal which may be altered at pleasure, and to use it, or a
 21 facsimile thereof, as required by law;

22 (3)(A) Acquire absolute title to and use for any purpose and at any
 23 place water stored in any reservoir or other water source created by the
 24 construction of a multipurpose dam by or under the direction and supervision
 25 of the United States Army Corps of Engineers or by the water district with
 26 federal financial or other assistance furnished by the United States Secretary
 27 of Agriculture under the provisions of the Watershed Protection and Flood
 28 Prevention Act, as amended, or with financing provided by any federal, state,
 29 or other source;

30 (B) Acquire water storage and withdrawal rights in any reservoir
 31 or other water source created by the construction of a multipurpose dam by or
 32 under the direction and supervision of the United States Army Corps of
 33 Engineers or by the water district with federal financial or other assistance
 34 furnished by the United States Secretary of Agriculture under the provisions
 35 of the Watershed Protection and Flood Prevention Act, as amended, or with
 36 financing provided by any federal, state, or other sources;

1 (C) Transport, distribute, sell, furnish, and dispose of the
 2 water from whatever source derived to any person at any place;

3 (D) In the case of a district in existence on January 1, 2001,
 4 other than districts the lands in which are subject to assessment under §§ 14-
 5 116-601 through 14-116-611, collect, transport, treat and dispose of sewage
 6 and liquid waste and own, acquire, operate, construct, equip, improve, expand,
 7 contract concerning, or otherwise deal in and with, regard to facilities for
 8 any or all of the purposes;

9 ~~(D)~~(E) Construct, erect, purchase, lease as lessee, and in any
 10 manner acquire, own, hold, maintain, operate, sell, dispose of, lease as
 11 lessor, exchange, and mortgage real property, personal property, easements,
 12 interests in real property, plants, buildings, works, machinery, supplies,
 13 equipment, apparatus, facilities, property rights, and transportation and
 14 distribution lines, facilities, equipment, or systems necessary, convenient,
 15 or useful;

16 ~~(E)~~(F) Regulate, define, and control the rate and location of any
 17 withdrawal or transfer of water which is owned, acquired, or developed by the
 18 water district in natural or manmade channels; provided that riparian owners
 19 of natural watercourses are not obligated to pay for their historical riparian
 20 use from such natural water courses;

21 ~~(F)~~(G) Authorize persons to enter for any purpose water which has
 22 been or is being transported or is held by the water district, but only if the
 23 water district has acquired absolute title to land under the water or has
 24 obtained permission of the owner of the land under the water; provided, this
 25 provision shall not limit a district's authority to enter on lands for
 26 inspection or other purposes consistent with the purposes of this chapter;

27 (4) Assist its customers in the preparation of their premises for the
 28 use of water furnished by the water district and install upon the premises
 29 fixtures, machinery, supplies, apparatus, and equipment of any and all kinds
 30 and character, and in connection therewith, and for that purpose, to purchase,
 31 acquire, lease, sell, distribute, install, and repair fixtures, machinery,
 32 supplies, apparatus, and equipment of any and all kinds and character and to
 33 receive, acquire, endorse, pledge, hypothecate, and dispose of notes, bonds,
 34 and other evidences of indebtedness;

35 (5) Acquire, own, hold, use, exercise, and to the extent permitted by
 36 law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of

1 franchises, rights, privileges, licenses, rights-of-way, and easements
 2 necessary, useful, or appropriate;

3 (6) Purchase, receive, lease as lessee, or in any other manner acquire,
 4 own, hold, maintain, sell, exchange, and use any and all real and personal
 5 property, or any interest therein;

6 (7)(A) Borrow money and otherwise contract indebtedness, to issue its
 7 obligations therefor, and to secure the payment thereof by mortgage, pledge,
 8 or deed of trust of all or any part of its property, assets, franchises,
 9 rights, privileges, licenses, rights-of-way, easements, revenues, or income.

10 (B) The obligations may be in the form of negotiable bonds but
 11 may be registered as public obligations under the Registered Public
 12 Obligations Act of Arkansas, § 19-9-401 et seq., may be issued in one (1) or
 13 more series, may bear such date or dates, may mature at such times, not
 14 exceeding forty (40) years from their respective dates, may bear interest at
 15 rate or rates, may be in such form, may be executed in such manner, may be
 16 payable in such medium of payment, may be payable at such place or places,
 17 within or without the State of Arkansas, may be subject to such terms of
 18 redemption, and may contain such terms, covenants, and conditions as the
 19 resolution of the board authorizing the bonds may provide.

20 (C) The resolution of the board authorizing the bonds may provide
 21 for the execution by the water district of a trust indenture with a bank or
 22 trust company, within or without the State of Arkansas, which defines the
 23 rights of the holders and registered owners of the bonds and provides for the
 24 appointment of a trustee for the holders and registered owners of the bonds.

25 (D) The trust indenture may control the priority between
 26 successive issues and may contain such other terms, covenants, and conditions
 27 that are deemed desirable including, without limitation, those pertaining to
 28 the custody and application of the proceeds of the bonds, the collection and
 29 disposition of revenues, the maintenance and investment of various funds and
 30 reserves, the nature and extent of the security, the rights and duties of the
 31 water district and the trustee for the holders or registered owners of the
 32 bonds, and the rights of the holders or registered owners of the bonds.

33 (E) The bonds may be sold at such price, including sale at a
 34 discount, and in such manner as the board may determine.

35 (F) All bonds, whether previously or subsequently issued pursuant
 36 to the provisions of this section, shall be exempt from all state, county, and

1 municipal taxes;

2 (8) Sell and convey, mortgage, pledge, lease as lessor, and otherwise
3 dispose of all or any part of its property, assets, franchises, rights,
4 privileges, licenses, rights-of-way, and easements;

5 (9) In connection with the acquisition, construction, improvement,
6 operation, or maintenance of its transportation and distribution lines,
7 systems, equipment, facilities, or apparatus, use the bed of any stream
8 without adversely affecting existing riparian rights, any highway or any
9 right-of-way, easement, or other similar property rights, or any tax-forfeited
10 land owned or held by the State of Arkansas or any political subdivision;
11 however, this provision does not entitle riparian users to receive water
12 owned, acquired, or developed by the water district without paying the
13 district's water user charges;

14 (10) Have and exercise the right of eminent domain for the purpose of
15 acquiring rights-of-way and other properties necessary in the construction or
16 operation of its property and business in the manner now provided by the
17 condemnation laws of this state for acquiring private property for public use;
18 however, this power shall not be used by an irrigation water district for the
19 acquisition or construction of private on-farm irrigation reservoirs or
20 natural watercourses, and any surplus property obtained by an irrigation water
21 district under this power shall be first offered to the person or persons
22 owning the remaining property from which it was taken at the price paid as
23 eminent domain damages before it may be sold to others;

24 (11) Accept gifts or grants of money, services, franchises, rights,
25 privileges, licenses, rights-of-way, easements, or other property, real or
26 personal;

27 (12) Make any and all contracts necessary or convenient for the
28 exercise of the powers granted in this chapter;

29 (13)(A) Fix, regulate, and collect rates, fees, rents, or other charges
30 for water and any other facilities, supplies, equipment, or services furnished
31 by the water district.

32 (B) Rates shall be just, reasonable, and nondiscriminatory.

33 (C) If any district distributes water to consumers outside the
34 district, the rates, fees, rents, and other charges for water and other
35 facilities, supplies, equipment, or services furnished to consumers outside
36 the district shall be calculated to pay the cost of such distribution outside

1 the district. No part of the cost of distributing water or providing other
 2 services outside the district shall be borne by the members of the district,
 3 and there shall be no increase in the cost to members in the district as a
 4 result of furnishing water to consumers outside the district;

5 (14) Conduct its affairs within and without this state;

6 (15) Elect, appoint, or employ officers, agents, and employees of the
 7 water district and define their duties and fix their compensation;

8 (16) Do and perform all acts and things and have and exercise any and
 9 all powers as may be necessary, convenient, or appropriate to effectuate the
 10 purposes for which the water district is organized;

11 (17) Accept appropriations from the state upon such terms and
 12 conditions as may be imposed by law or regulation to be used in the
 13 furtherance of the purposes for which the water district was created;

14 (18) With notice, enter upon any land within or outside the water
 15 district for inspection purposes or other purposes as are necessary,
 16 convenient, and not inconsistent with the purposes of this chapter;

17 (19) Notwithstanding the powers conferred by this section, a water
 18 district shall comply with all laws of the State of Arkansas regarding the
 19 acquisition, storage, transportation, distribution, treatment, or disposal of
 20 water, including, without limitation, laws related to minimum stream flow,
 21 nonriparian water use, groundwater use, Arkansas Water Plan compliance, and
 22 public water supply;

23 (20) Notwithstanding any other provisions of this chapter, no
 24 irrigation district shall have the power to acquire title to or use any water
 25 stored in any reservoir created by a dam constructed before July 1, 1995, or
 26 to acquire water storage or withdrawal rights in any such reservoir. The last
 27 sentence shall not apply to United States Army Corps of Engineers projects
 28 whose main purpose is navigation. Irrigation districts may obtain water from
 29 wells, from excess surface water as defined in § 15-22-304, and from
 30 reservoirs constructed after July 1, 1995.

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 32 SECTION 3. This act shall apply to regional water distribution
 33 districts in existence on January 1, 2001, provided that it shall not apply to
 34 districts the lands within which have been subjected to an assessment or
 35 assessments of benefits under Arkansas Code §§ 14-116-601 through 14-116-601.

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1 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General
2 Assembly of the State of Arkansas that there is an immediate need for the
3 operation of sewer facilities by a responsible regional public agency in
4 certain situations, to assure the health and safety of persons and the
5 environment. Therefore, an emergency is declared to exist and this act being
6 immediately necessary for the preservation of the public peace, health and
7 safety shall become effective on the date of its approval by the Governor. If
8 the bill is neither approved nor vetoed by the Governor, it shall become
9 effective on the expiration of the period of time during which the Governor
10 may veto the bill. If the bill is vetoed by the Governor and the veto is
11 overridden, it shall become effective on the date the last house overrides the
12 veto.

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