

Act 618 of the 1989 Regular Session.

Act 618

HB1723

By: Representatives Northcutt and Glover

"AN ACT TO AMEND ARKANSAS CODE 14-116-402 AND 14-117-304 TO CLARIFY THE POWERS OF REGIONAL WATER DISTRICTS AND IRRIGATION AND DRAINAGE IMPROVEMENT DISTRICTS TO MANAGE THEIR WATER RESOURCES; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 14-116-402 is hereby amended to read as follows:

"14-116-402. District powers. Each water district shall have power to:

- (1) Sue and be sued, complain and defend, in its corporate name;
 - (2) Adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
 - (3) (A) Acquire absolute title to and use for any purpose and at any place water stored in any reservoir or other water source created by the construction of a multipurpose dam by or under the direction and supervision of the United States Army Corps of Engineers or by the water district with federal financial or other assistance furnished by the United States Secretary of Agriculture under the provisions of the Watershed Protection and Flood Prevention Act or any other federal law;
 - (B) Acquire water storage and withdrawal rights in any reservoir or other water source created by the construction of a multipurpose dam by or under the direction and supervision of the United States Army Corps of Engineers or by the water district with federal financial or other assistance furnished by the United States Secretary of Agriculture under the provisions of the Watershed Protection and Flood Prevention Act, as amended, or any other federal law;
 - (C) Transport, distribute, sell, furnish, and dispose of the water from whatever source derived to any person at any place;
 - (D) Construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange, and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, facilities, property rights, and transportation and distribution lines, facilities, equipment, or systems necessary, convenient, or useful;
 - (E) Regulate, define, and control the rate and location of any withdrawal or transfer of water, in natural or manmade channels, which is owned, acquired, or developed by the district.
- (4) Assist its customers in the preparation of their premises for the use of water furnished by the water district and install upon the premises fixtures, machinery, supplies, apparatus, and equipment of any and all kinds and character, and in connection therewith, and for that purpose, to purchase, acquire, lease, sell, distribute, install, and repair fixtures, machinery, supplies, apparatus, and equipment of any and all kinds and character and to receive, acquire, endorse, pledge, hypothecate, and dispose of notes, bonds, and other evidences of indebtedness;
 - (5) Acquire, own, hold, use, exercise, and to the extent permitted by law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges, licenses, rights-of-way, and easements

necessary, useful, or appropriate;

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

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

(B) The obligations may be in the form of negotiable coupon bonds payable to bearer but may be registrable as to principal only or as to principal and interest, may be issued in one (1) or more series, may bear date or dates, may mature at times not exceeding forty (40) years from their respective dates, may bear interest at rate or rates, may be in such form, may be executed in such manner, may be payable in such medium of payment, may be payable at such place or places within or without the State of Arkansas, may be subject to such terms of redemption, and may contain such terms, covenants, and conditions as the resolution of the board authorizing the bonds may provide.

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

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

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

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

(9) In connection with the acquisition, construction, improvement, operation, or maintenance of its transportation and distribution lines, systems, equipment, facilities, or apparatus, use the bed of any stream without adversely affecting existing riparian rights, any highway or any right-of-way, easement, or other similar property rights, or any tax-forfeited land owned or held by the State of Arkansas or any political subdivision;

(10) Have and exercise the right of eminent domain for the purpose of acquiring rights-of-way and other properties necessary in the construction or operation of its property and business in the manner now provided by the condemnation laws of this state for acquiring private property for public use;

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

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

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

(B) The rates shall be just, reasonable, and nondiscriminatory.

(C) If any district distributes water to consumers outside the district, the rates, fees, rents, and other charges for water and other

facilities, supplies, equipment, or services furnished to consumers outside the district shall be calculated to pay the cost of such distribution outside the district. No part of the cost of distributing water or providing other services outside the district shall be borne by the members of the district, and there shall be no increase in the cost to members in the district as a result of furnishing water to consumers outside the district;

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

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

(16) Do and perform all acts and things and have and exercise any and all powers as may be necessary, convenient, or appropriate to effectuate the purpose for which the water district is organized."

SECTION 2. Arkansas Code 14-117-304 is hereby amended to read as follows:

"14-117-304. Powers and duties. (a) The board shall have and may exercise any functions, powers, authority, rights, and duties that permit the accomplishments of the purposes for which such districts may be created, including the investigation and, in case a plan for improvements is adopted, then the construction, maintenance, and operation of all necessary improvements, plants, works, and facilities; the acquisition by purchase, lease, gift, or condemnation of water rights and all other properties, lands, tenements, easements; and all other rights helpful in carrying out the purposes of the organization of the district.

(b) The board, its agents, and its employees shall have the right to enter upon any land within the district to make surveys and for other purposes.

(c) The board may also accept appropriations from the state upon such terms and conditions as may be imposed by law or regulation to be used in the furtherance of the purposes for which the district was authorized.

(d) The board may also construct the necessary improvements and do any lawful act necessary to accomplish the purposes of the organization of the district.

(e) In order to protect the improvements of the district from damage, the board may make and prescribe necessary regulations. The board may make regulations to define and set the rate and location of any withdrawal of waters owned, acquired, or developed by the district and transferred by natural or man-made channels. The board may also make regulations governing the operation of the works of the district and the delivery of water owned or acquired by it to users and the performance of any of its other functions. The willful violation of these regulations shall constitute a misdemeanor under the laws of this state punishable by a fine of not to exceed one thousand dollars (\$1,000)."

SECTION 3. Conflict of Regulations. In the event that the regulations of water and soil improvement districts under Subtitle 7 of Title 14 of the Arkansas Code conflict, and in the event that the water and soil improvement districts are unable to resolve the conflict the Arkansas Soil and Water Conservation Commission shall have all powers necessary to resolve the conflict, including the power to require any district to modify or rescind any regulation in conflict.

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws or parts of laws in conflict with this act are

hereby repealed.

APPROVED: March 16, 1989
