

that this Act take effect, and be in force from and after its passage, and it is so enacted.

Effective 20 days after adjournment.

[NOTE: H. B. No. 187 passed the House by a vote of 103 yeas, 0 nays; passed the Senate by a vote of 30 yeas, 0 nays; Received in Executive Office July 2, 1929, Received in Department of State July 2, 1929, without the Governor's signature.]

CREATING THE BRAZOS RIVER CONSERVATION AND RECLAMATION DISTRICT.

H. B. No. 197.]

CHAPTER 13.

An Act to create the Brazos River Conservation and Reclamation District under the authority of Section 59 of Article 16, of the Constitution of Texas, and defining the powers and duties of the said District; providing for temporary directors and organization and operation of the district; and the authority and duties of said temporary directors; providing for determining the area of the District for temporary organization and for permanent organization; providing certain duties for the State Board of Water Engineers, State Reclamation Engineers and the Governor of the State; providing for the manner of securing funds for engineering surveys and other purposes necessary to develop information essential to the ascertainment of the plan of improvement necessary to secure the control of harmful flood waters, and the useful distribution of such water; providing that the said District shall be governed by the provisions of Chapter 25, of the General and Special Laws of the Regular Session of the 39th Legislature and the various amendments thereto, in all respects not specifically otherwise provided in this Act; and declaring an emergency.

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

SECTION 1. It being declared by Constitutional Provision the policy of the State of Texas, Section 59, Article 16, to provide for the conservation and development of all the natural resources of the State, including the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid, and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forest, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State, are each and all hereby declared public rights and duties, which may be affected through the creation within the State, or the division of the State into such number of Conservation and Reclamation Districts as may be determined to be essential to the accomplishment of the purposes of the policy expressed in the Constitution of the State, such Districts to be governmental agencies and bodies politic and cor-

porate, with all rights, privileges and functions as may be conferred by law, there is hereby created the Brazos River Conservation and Reclamation District.

SEC. 2. The Brazos River Conservation and Reclamation District is created as a governmental agency, a municipality, body politic and corporate, vested with all the authority as such under the Constitution and Laws of the State; and shall have and be recognized to exercise all of the powers of such governmental agency and body politic and corporate as are expressly authorized in the provisions of the Constitution, Section 59 of Article 16, for Districts created to conserve, control, and utilize to beneficial service the storm and flood waters of the rivers and streams of the State, or such powers as may be contemplated and implied by the purposes of this provision of the Constitution, and as may be conferred by General Law, and in the provisions of this Act; and shall have and be recognized to exercise all the rights and powers of an independent governmental agency, municipality, body politic and corporate to formulate any and all plans deemed essential to the operation of the District and for its administration in the control, storing, preservation and distribution to all useful purposes of the storm and flood waters of the Brazos River and its tributary streams; as such District, shall have and be recognized to exercise such authority and power of control and regulation over such storm and flood waters of the Brazos River and its tributaries as may be exercised by the State of Texas, subject to the provisions of the Constitution and the Acts of the Legislature.

SEC. 3. The Brazos River Conservation and Reclamation District shall have and be recognized to exercise, in addition to all the general powers vested by virtue of the Constitution and Statutes in a governmental agency and body politic and corporate, for the greatest practicable measure of the conservation and beneficial utilization of storm and flood waters, the powers of control and employment of such flood and storm waters of the said District in the manner and for the particular purposes hereinafter set forth;

(a) To provide through the only practical and legal means or the control and the coordination of the regulation of the waters of the watershed of the Brazos River and its tributary streams as a unit.

(b) To provide by adequate organization and administration for the preservation of the equitable rights of the people of the different sections of the watershed area in the beneficial use of storm and flood waters of the Brazos River and its tributary streams.

(c) For storing, controlling and conserving storm and flood waters of the Brazos River and its tributaries, and the prevention of the escape of any of such waters without the maximum of public service; for the prevention of devastation of lands from recurrent overflows, and the protection of life and property in such watershed area from uncontrolled flood waters.

(d) For the conservation of waters essential for the domestic uses of the people of the watershed of the Brazos River and its tributaries, including all necessary water supplies for cities and towns.

(e) For the irrigation of lands in the watershed of the Brazos River and its tributary streams where irrigation is required for agricultural purposes or may be deemed helpful to more profitable agricultural production; and for the equitable distribution of storm and flood waters to the regional potential requirements for all uses, domestic, manufacturing and irrigation. All plans and all works provided by said Districts, and as well, all works which may be provided under authority of said District should have primary regard to the necessary and potential needs for water, by or within the respective area constituting the watershed of the Brazos River and its tributary streams.

(f) For the better encouragement and development of drainage systems and provisions for drainage of lands in the valleys of the Brazos River and its tributary streams needing drainage for profitable agricultural production; and drainage for other lands in the watershed area of the District requiring drainage for the most advantageous use.

(g) For the purpose of encouraging the conservation of all soils against destructive erosion and thereby preventing the increased flood menace incident thereto.

(h) To control and make available for employment flood and storm waters in the development of commercial and industrial enterprises in all sections of the watershed area of the District.

(i) For the control, storing and employment of flood and storm waters in the development and distribution of hydroelectric power, where such use may be economically co-ordinated with other and superior uses, and subordinated to the uses declared by law to be superior.

(j) For the encouragement, aid and protection of navigation, and the protection of harbor improvements.

(k) And for each and every purpose for which flood and storm waters when controlled and conserved may be utilized in the performance of a useful service as contemplated and authorized by the provisions of the Constitution and the public policy therein declared.

SEC. 4. The powers and duties herein devolved upon the Brazos River Conservation and Reclamation District are recognized to be taken subject to all Legislative declarations of public policy in the maximum utilization of the storm and flood waters of the State for the purposes for which the District is created, as expressed and indicated in this Act, and subject to the continuing rights of supervision by the State which shall be exercised through the State Board of Water Engineers, and in appropriate instances, by the State Reclamation Engineer, each of which agencies shall be charged with the authority and duty to approve, or to refuse to approve, the adequacy of any plan or

plans for flood control or conservation improvement purposes devised by the District for the achievement of the plans and purposes intended in the creation of the District, and which plans contemplate improvements supervised by the respective State authorities under the provisions of the General Law.

SEC. 5. The area of said District is hereby established to comprise the whole of all counties lying wholly or in part in the watershed of the Brazos River and its tributary streams as the same is made certain by the State contour maps now on file in the office of the State Board of Water Engineers. Reference is hereby made to said records of maps in aid hereof, and the certificate of said Board transmitted to the tax assessing and collecting officer or officers of such counties shall establish the duty of such officers to assess and collect the tax elsewhere in this Act provided to be assessed and collected. It is provided, however, that the boundaries of said District, as hereby established, shall control until September 1, 1931. Said Board of Water Engineers are directed to establish prior to August 1, 1930, the actual boundaries of the area within the said watershed so that the same may be expressed in written calls of the metes and bounds of said watershed, and relate the same to the tax assessment plats of the respective counties. The written description of said boundaries shall prior to said August 1, 1931, be certified by said Board to the temporary directors of the District, and said certified boundaries shall be recorded by the directors in the District Minutes prior to September 1, 1931. Prior to September 5, 1931, the directors shall cause to be filed with the County Tax Assessor of each county in the District embracing lands not actually contained in said watershed, a certificate of exclusion of all lands so certified as not being embraced with the watershed. Said certificate of exclusion shall describe the boundaries of the area excluded so that the lands remaining in the District may be adequately identified for the assessment and levying of District taxes. The lands so excluded shall not be subject to any imposition of District taxes for any year after December 31, 1931. The cost to designate the written calls of the metes and bounds of said watershed, as in this Section provided, shall be borne by the District and shall be paid out of money derived from the collection of taxes hereby levied.

SEC. 6. When the calls to establish the metes and bounds of the area of the District have been determined as herein provided, the Board of Water Engineers and the State Reclamation Engineer shall designate, subject to the approval of the Governor, twenty-one persons, each of whom shall be a citizen of the area comprising the District, and a property taxpaying voter, to serve as a temporary Board of Directors of the District. Upon notification by the State Board of Water Engineers of their designation as members of the temporary Board of Directors of the Brazos River Conservation and Reclamation District, and not more than 60 days thereafter, the members of the said tem-

porary Board of Directors shall meet and organize by the election of one of their number as president, one as vice-president, and one as secretary. Each of the said temporary directors shall take and subscribe to an oath of office, similar in character to the oaths administered to County Commissioners, and shall execute bond in the sum of \$5,000.00 each, payable to the District, the sufficiency of which bond shall be determined by the State Board of Water Engineers, which bonds after being recorded in the official bond records of the county in which the District maintains its principal office, shall be deposited with the Depository selected and approved for the deposit of the funds of the District. The terms of service of such temporary directors, and as well the years for which the tax for providing plans for the District may be collected, shall be for such length of time as may be required to actually formulate plans adequate to accomplish the purposes of this Act. The time at which such adequate plans have been developed shall be determined by the State Board of Water Engineers and the Reclamation Engineer of Texas. As soon as may be done after the completion and the approval of plans, directors, other than temporary, shall be chosen for the District under other provisions of this Act.

SEC. 7. The temporary Board of Directors shall be authorized and directed to make surveys and engineering investigations for the information of the District and determine the plans necessary to the accomplishment of the purposes for which the District is created, as expressed in the provisions of this Act; and may employ engineers, attorneys, and all other technical and non-technical assistants or employees and fix and provide the amount and manner of their compensation for the making of such surveys, the preparation of plans and the collection of data essential to the determination of the character extent and cost of all permanent improvements essential for the control of storm and flood waters of the District and their distribution to beneficial use in any and all practicable means throughout the area of the District as herein declared, and for expenditures found essential in the maintenance and administration of the District. The members of the temporary Board of Directors shall receive a per diem of not more than \$10.00 a day for the period served, together with traveling and other necessary expenses. Provided this per diem shall not exceed twenty days in any one year. Any director may perform any service required by the Board, but in any such case may not receive the per diem and other compensation at the same time.

SEC. 8. For the purpose of providing funds requisite to secure necessary engineering surveys, the collection and compilation of data respecting regional and general conditions entering into and influencing the character and extent of the improvements necessary to the storage, control, conservation and equitable distribution, to the greatest public advantage of such flood waters when stored and controlled, it is hereby provided that any

county within the area of the temporary District, as herein defined, may contribute to the funds from year to year for such engineering surveys and the compilation of data essential to the progress of flood control improvement in such amount as may be deemed an equitable part of the cost of such surveys and the compilation of necessary information in the estimated relations of such expenditures to the contemplated and probable benefit to secure to the respective counties from the accomplishment of the plans and purposes of the creation of the District, and for the provision of such fund may make the necessary collections through their respective general funds, or may appropriate the amount of the estimated equitable contribution of such costs of developing essential engineering data from their general fund.

SEC. 9. At such time as the State Board of Water Engineers and the Reclamation Engineer of Texas, do determine and certify to the temporary directors of said District that the District has produced a plan adequate, feasible and practicable to provide for the control and use of the storm and flood waters of the Brazos River and tributaries in such manner that the improvements upon one part of the watershed will be mechanically and economically related to all other required improvements upon such streams; then, and at such time, the temporary, or investigation period of said District, shall be ended, and said District shall thereupon become a Master District, having all and singular, the powers, duties, functions, and to observe procedures insofar as the same may be applicable and practicable to accomplish the purposes of this Act, as is provided by Chapter 25 of the Acts of the 39th Legislature, Regular Session, of Texas, and the several amendments thereof; provided, however, that said provisions shall not apply to any matter specifically provided for, or expressly or impliedly excluded, by provisions of this Act. Especially there are hereby excluded all provisions of said Chapter 25 relating to the creation of a District and to the issuance of preliminary bonds to finance the making of investigations upon which to base a plan for improvements and the levy of a tax therefor. It is however, provided that the District may upon a vote of the qualified electors issue such preliminary bonds and levy a tax to retire the same, which tax may be in addition to the tax hereby levied; Section 155 of Chapter 280 General and Special Laws, Act, of the 41st Legislature of Texas (Regular Session) amending Chapter 25, of the 39th Legislature of Texas (Regular Session) and Section 6 of Chapter 107 of the Acts of the 40th Legislature (First Called Session) amending said Chapter 25, shall not control this District but in lieu thereof it is specifically provided as follows, viz:—

(a) After the completion and approval of a plan for the coordination of improvements deemed adequate to serve said watershed as a whole, as hereinbefore provided, the State Board of Water Engineers and the Reclamation Engineer of Texas, in authorizing improvements to control the waters of, and/or, in

allocating the right to use waters from said Brazos River and its tributaries, shall substantially conform to and shall effectually preserve the benefits of the plan formulated by this District, and said District shall have the right to enforce the observance of the same by Judicial decree.

(b) The District shall have the power to provide and maintain improvements for the common benefit of said District as a whole, subject only, in appropriate case, to the Constitutional and Statutory provisions concerning a vote by the qualified electors of the District.

(c) Especially shall said District have all and singular the powers contained in Section 15 of said Chapter 280 relating to improvements peculiar to define areas within a District.

(d) It is, however, further provided that if the electors of any defined area within this District desire they may become a Water Control and Improvement District for the purpose of independently providing, operating and maintaining improvements designed peculiarly to serve such defined area. Such contained defined area may be so constituted under the applicable provisions of said Chapter 25. In like manner any other political subdivision of the State of Texas being in whole or in part in this District may independently provide, maintain and operate works peculiarly designed to benefit such body politic. In either case, however, such works and the operation thereof shall be constructed and operated in such manner as will conform to this District plan to the greatest practicable degree.

(e) To the extent necessary to enable this District to construct, maintain and operate works beneficial to the District as a whole or to give supervision, or to perform any service inuring to the benefit of the District as a whole and providing funds adequate to defray the cost of the administration to this District, it shall have the power to levy and collect taxes, equitably distributed, which taxes shall be in addition to other taxes that may lawfully be levied by the State and other political subdivisions thereof.

(f) Upon the completion of a plan for improvements by this District and the approval thereof, as before provided for in this Act, it shall be the duty of the temporary directors to order and give notice of an election of directors, and to canvass the returns of such election in the manner provided for in said Chapter 25, as amended. Such election shall be held on the second Monday in the calendar month beginning next after the expiration of ninety days from the day of such approval of plans for improvements, as herein provided.

The Directors to be elected shall be twenty-one in number, and so far as practicable, shall be chosen to give equitable regional representation to the several areas constituting the District.

SEC. 10. The Brazos River Conservation and Reclamation District shall not be authorized to issue bonds nor to incur any form of continuing obligation or indebtedness for purposes of

effecting improvements comprehended in the plan of organization and administration of the District, nor incur any indebtedness in the form of a continuing charge upon lands or properties within the District, unless such proposition shall have been submitted to the qualified property taxpaying voters of the District, or, in appropriate case, such voters of a defined area within the District, and approved by a majority of such electors voting thereon.

SEC. 11. The Board of Directors of the District shall be elected and constituted as follows:

1. The number of such directors shall be twenty-one (21).
2. Six of such directors shall be elected by a vote of the electors of the District as a whole.
3. The temporary directors for the purpose of the first election shall divide the District into fifteen (15) directorial districts, and each such District shall be entitled to elect one director by a majority vote within such directorial district.
4. The two directors elected at large receiving the highest number of votes shall serve for six years; the two directors at large receiving the next high number of votes shall serve for four years and the two directors receiving the lowest number of votes shall serve for two years.
5. The first elected directors chosen by vote wholly within the directorial districts shall serve for such time as may be determined by lot; five shall serve for a term of six years, five shall serve for four years, and five shall serve for two years.
6. Upon the expiration of the term of any director there shall be held an election to determine a successor who shall hold office for the term of six years.
7. An election for directors shall be held each biennium on the corresponding Monday in the same month in which the first election may be held.

SEC. 12. In the prosecution of the plans for which the District has been created for the storing, controlling, conserving and distributing to useful purposes of the storm and flood waters of the Brazos River watershed, the District shall be recognized to have the right to make use of the bed and bank of the Brazos River and of its tributary streams for any and all purposes necessary to the accomplishment of the plans of the District.

SEC. 13. If any provision of this Act, or any of the methods by which the Act is designed to become effective to the accomplishment of the purposes contemplated and expressed, shall be held invalid, such holding shall not affect the creation of the District or the validity of any of the other provisions of the Act.

SEC. 14. The importance of this legislation to a very large area of the most productive agricultural and other lands of the State, and the fact that the limited time of the Special Sessions of the Legislature makes necessary the greatest possible expedition in the enacting of all pending measures, create an emer-

gency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended and that this Act be placed upon its third reading and final passage, and the said Rule is hereby so suspended, and this Act shall take effect from and after its passage, and it is so enacted.

Effective 90 days after adjournment.

[NOTE: H. B. No. 197 passed the House by a vote of 91 yeas, 7 nays, 3 present and not voting; passed the Senate by a vote of 22 yeas, 0 nays. Received in Executive Office July 2, 1929. Received in Department of State July 5, 1929, without the Governor's signature.]