CHAPTER 493
S.B. No. 794
AN ACT
relating to the composition of the board of directors of the Central Colorado River Authority.

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

SECTION 1. Subsections (a) and (c), Section 4, Chapter 338, General Laws, Acts of the 44th Legislature, Regular Session, 1935, are amended to read as follows:

(a) The powers, rights, privileges and functions of the District shall be exercised by a board of five [nine] directors (herein called the Board), all of whom shall be residents of and freehold property taxpayers in the State of Texas and shall be residents of the District herein created, said five [nine] directors of the Board to be appointed by the Governor of the State of Texas and confirmed by the Senate of Texas. Provided that no person shall be eligible for such appointment if he has during the preceding three years before his appointment been employed by an electric power and light company, gas company, telephone company, or any other utility company of any kind or character whatsoever. Directors are appointed for staggered terms of six years with one or two [three] directors' terms expiring on February 1 of each odd-numbered year. At the expiration of the term of any director, another director shall be appointed by the Governor. Each director shall hold office until the expiration of the term for which he was appointed and thereafter until his successor shall have been appointed and qualified, unless sooner removed as in this Act provided.

(c) Until the adoption of by-laws fixing the time and place of regular meetings and the manner in which special meetings may be called, meetings of the Board shall be held at such times and places as a majority [five] of all the directors may designate in writing. A majority of the membership of the Board constitutes [Five directors shall constitute] a quorum at any meeting, and, except as otherwise provided in this Act, or in the by-laws, all actions may be taken by the affirmative vote of a majority of the directors present at any such meeting, except that no contract which involves an amount greater than Ten Thousand ($10,000.00) Dollars, or which is to run for a longer period than a year, and no bonds, notes or other evidence of indebtedness and no amendment of the by-laws shall be valid unless authorized or ratified by the affirmative vote of at least a majority of the entire membership of the Board [five directors].

SECTION 2. Sections 6, 11, and 15, Chapter 338, General Laws, Acts of the 44th Legislature, Regular Session, 1935, are amended to read as follows:

Sec. 6. The moneys of the District shall be disbursed only on checks, drafts, orders or other instruments signed by such persons as shall be authorized to sign the same by the by-laws, or resolution concurred in by not less than a majority of the entire membership of the Board [five directors]. The General Manager, the Treasurer and all other officers, agents and employees of the District who shall be charged with the collection, custody or payment of any funds of the District shall give bond conditioned upon the faithful performance of their duties and an accounting for all funds and property of the District coming into their respective hands, each of which bonds shall be in form and amount and with a surety (which shall be a surety company authorized to do business in the State of Texas) approved by the Board, and the premiums on such bonds shall be paid by the District and charged as an operating expense.

Sec. 11. The District shall have power and is hereby authorized to issue, from time to time, bonds as herein authorized for any corporate purpose, not to exceed Five Hundred Thousand ($500,000.00) Dollars, in aggregate principal amount. Any additional amount of bonds must be authorized by an Act of the Legislature. 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 interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed six (6%) per centum per annum, or (2) may be issued on such terms as the Board shall determine in exchange for property of any kind, real, personal, or mixed or any interest therein which the Board shall determine in exchange for property of any kind, real, personal or mixed or any interest therein which the Board shall deem necessary or convenient for any
such corporate purpose, or (3) may be 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 paid 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 of the Board concurred in by at least a majority of the entire membership of the Board [five of the members thereof], and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates (not exceeding six (6%) per centum per annum) payable annually or semiannually, 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 at such time or times, in such amounts and at such prices, not exceeding one hundred five (105%) per centum of the principal amount thereof, plus accrued interest, 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 net revenues thereafter received by the District in respect of the property, real, personal or mixed, 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 the items specified in subdivisions (a), (b), (c), and (d) of Section 9 hereof, and prescribing the use and disposition of all revenues; (f) prescribing limitations upon the issuance of additional 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 States of America or any officer or agency thereof, of indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or 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 not inconsistent with the provisions of this Act, as the Board may approve.

Any such resolution and any indenture or agreement entered into pursuant thereto may provide that in the event that

(a) default shall be made in the payment of the interest on any or all bonds when and as the same shall become due and payable, or

(b) default shall be made in the payment of the principal of any or all bonds when and as the same shall become due and payable, whether at the maturity thereof, by call for redemption or otherwise, or

(c) default shall be made in the performance of any agreement made with the purchasers or successive holders of any bonds.

And such default shall have continued such period, if any, as may be prescribed by said resolution in respect thereof, the trustee under the indenture or indentures entered into in respect of the bonds authorized thereby, or if there shall be no such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the holders of twenty-five (25%) per centum in aggregate principal amount of the bonds authorized thereby and at
the time outstanding may, and upon the written request of the holders of twenty-five (25\%) per centum in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, shall, in his or its own name, but for the equal and proportionate benefit of the holders of all of such bonds; and with or without having possession thereof;

   (1) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds;

   (2) bring suit upon such bonds and/or the appurtenant coupons;

   (3) by action or suit in equity, require the district to account as if it were the trustee or an express trust for the bondholders;

   (4) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; and/or

   (5) after such notice to the District as such resolution may provide, declare the principal of all such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holders of twenty-five (25\%) per centum in aggregate principal amount of such bonds at the time outstanding, annul such declaration and its consequences; provided, however, that the holders of more than a majority in principal amount of the bonds authorized thereby and at the time outstanding shall by instrument or instruments in writing delivered to such trustee have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Any such resolution, indenture or agreement may provide that in any such suit, action or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the District and operate and maintain the same, and fix, collect and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in subparagraphs (a), (b), (c), and (d) of Section 9 hereof and the costs and disbursements of such suit, action or proceeding and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee and of the receiver or receivers, if any, shall constitute taxable disbursements, and all costs and disbursements allowed by the court shall be a first charge upon any revenues pledged to secure the payment of such bonds, action or proceeding and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee and of the receiver or receivers, if any, shall constitute taxable disbursements, and all costs and disbursements allowed by the court shall be a first charge upon any revenues pledged to secure the payment of such bonds. Subject to the provisions of the Constitution of the State of Texas, the courts of the County of Coleman shall have jurisdiction of any such suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinafore specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their rights.

Before any bonds shall be sold by the District, a certified copy of the proceedings for 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 that 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 hereinafore provided.

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 obligation of the District and shall be incontestable for any cause from and after the time of such registration.

Sec. 15. Nothing in this Act shall be construed as authorizing the District, and it shall not be authorized to mortgage or otherwise encumber any of its property of any kind, real, personal or mixed, or any interest thereon, or to acquire any such property or interest subject to a mortgage or conditional sale, provided that this section shall not be construed as
section 2. (a) The change in law made by this Act does not affect the term of a member of the board of directors of the Central Colorado River Authority serving on the effective date of this Act. Except as provided by Section 4 of this Act, members appointed to fill vacancies occurring on or after the effective date of this Act must be appointed in accordance with Section 4, Chapter 338, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended by this Act.

(b) The change in law made by this Act does not prohibit a person who is a member of the Central Colorado River Authority board of directors before the effective date of this Act from being appointed as a member of the board of directors under the new composition of the board of directors if the person is otherwise qualified.

section 3. (a) The board shall consist of five members, three of whom shall be appointed by the governor with the advice and consent of both the senate and the house. The members shall be appointed to terms of seven years each, and any vacancy shall be filled for the unexpired term in the same manner, with the same qualifications, and for the same term of service. The governor shall assign the members to such terms as to provide for the terms to expire on February 1 of the years 2009, 2010, 2011, 2012, and 2013, respectively, unless otherwise provided by the governor.

(b) The board shall have the power to make all necessary rules for the government and direction of the board, and any of its members, its agents, or its employees, to carry out its powers and duties.

section 4. (a) The board shall have the power to adopt, amend, and enforce all necessary rules, regulations, and bylaws necessary for the proper administration of the affairs of the district.

(b) The board shall have the power to regulate the use of the water within the district, and to authorize the sale of water for any purpose, and to fix the rates and prices for the sale of water, and the manner of payment therefor.

(c) The board shall have the power to engage in all activities and enterprises necessary or proper for the purpose of the district, including the sale of electric energy, gas, and other commodities, and the provision of services.

(d) The board shall have the power to borrow money and to issue bonds, obligations, notes, and other securities, and to secure the payment thereof, by the pledge of its revenues or of any property, or by any other lawful means.

(e) The board shall have the power to sell or lease any property for any purpose, and to fix the terms and conditions of such sale or lease.

(f) The board shall have the power to enter into contracts and agreements for the purpose of carrying out its powers and duties.

section 5. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.
(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Passed the Senate on April 8, 2009: Yeas 31, Nays 0; passed the House on May 26, 2009: Yeas 142, Nays 0, one present not voting.

Approved June 19, 2009.


CHAPTER 494

S.B. No. 798

AN ACT
relating to refunds of overpayments or erroneous payments of ad valorem taxes.

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

SECTION 1. Section 31.11, Tax Code, is amended by amending Subsections (a) and (c) and adding Subsection (i) to read as follows:

(a) If a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes, the collector for the unit determines that the payment was erroneous or excessive, and the auditor for the unit agrees with the collector's determination, the collector shall refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds. However, the collector may not make the refund unless:

(1) in the case of a collector who collects taxes for one taxing unit, the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:

(A) $2,500 for a refund to be paid by a county with a population of 1.5 million or more; or
(B) $500 for a refund to be paid by any other taxing unit; or

(2) in the case of a collector who collects taxes for more than one taxing unit, the governing body of the taxing unit that employs the collector also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds $2,500.

(c) Except as provided by Subsection (c-1), an application for a refund must be made within three years after the date of the payment or the taxpayer waives the right to the refund. A taxpayer may apply for a refund by filing:

(1) an application on a form prescribed by the comptroller by rule; or

(2) a written request that includes information sufficient to enable the collector and the auditor for the taxing unit and, if applicable, the governing body of the taxing unit to determine whether the taxpayer is entitled to the refund.

(i) Notwithstanding the other provisions of this section, in the case of an overpayment or erroneous payment of taxes submitted by a taxpayer to a collector who collects taxes for one or more taxing units one of which is a county with a population of two million or more:

(1) a taxpayer is not required to apply to the collector for the refund to be entitled to receive the refund if the amount of the refund is at least $5 but does not exceed $5,000; and