

# Texas Historical Statutes Project

1962 SUPPLEMENT  
TO  
VERNON'S TEXAS STATUTES 1948



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VERNON'S  
TEXAS STATUTES  
1962 SUPPLEMENT

Including General and Permanent Laws  
of the  
57th Legislature, Regular Session  
and  
First and Second Called Sessions

TABLES and INDEX

Supplementing  
Vernon's Texas Statutes 1948  
and  
1950, 1952, 1954, 1956, 1958 and 1960 Supplements

KANSAS CITY, MO.  
VERNON LAW BOOK COMPANY



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## 1962 SUPPLEMENT

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This Supplement to Vernon's Texas Statutes includes the laws of a general and permanent nature enacted at the Regular Session and the First and Second Called Sessions of the 57th Legislature. The sessions convened and adjourned as follows:

	Convened	Adjourned
Regular Session .....	January 10, 1961	May 29, 1961
First Called Session .....	July 10, 1961	Aug. 8, 1961
Second Called Session ...	Aug. 10, 1961	Aug. 14, 1961

This volume supplements the 1948 edition of Vernon's Texas Statutes and the 1950, 1952, 1954, 1956, 1958 and the 1960 Supplements. Many important new laws were enacted at the 1961 sessions including Limited Sales, Excise and Use Tax Act (Tax.-Gen. arts. 20.01 et seq.); Texas Miscellaneous Corporation Laws Act (arts. 1302-1.01 et seq.); Texas Uniform Partnership Act (art. 6132b).

The constitutional amendments approved by the voters on November 8, 1960 are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1961, a special Table of Articles has been prepared and is printed on the colored pages herein.

Vernon's Texas Statutes 1948 and Supplements are under the same classification and arrangement as Vernon's Annotated Texas Statutes. This means that users of this popular edition may go from any article therein to the same article in Vernon's Annotated Texas Statutes where the complete constructions of the law by the state and federal courts, as well as complete historical data relative to the origin and development of the law, are conveniently available.

The same practical features which have served to popularize the 1948 Edition, such as a complete index, tables, etc., are continued in the Supplements.

The Publisher extends appreciative thanks to the office of the Secretary of State, as well as to other state officials, for guidance and suggestions during the preparation of this work.

VERNON LAW BOOK COMPANY

February, 1962.

## Cite This Book by Article

Vernon's Texas Civ. St., 1962 Supp. Art. —.

Vernon's Texas P. C., 1962 Supp. Art. —.

Vernon's Texas C. C. P., 1962 Supp. Art. —.

Vernon's Texas Prob. Code, § —.

Vernon's Texas Bus. Corp. Act, Art. —.

Vernon's Texas Elec. Code, Art. —.

Vernon's Texas Ins. Code, Art. —.

Vernon's Texas Non-Profit Corp., Art. —.

Vernon's Texas Tax.Gen., Art. —.

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CIVIL STATUTES			Civ.St.	Effect	Vernon's Texas St.Supp.
Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Art.	Effect	Vernon's Texas St.Supp.
1a	New	1961	46c-6	Am.	1961
23	Am.	1958	46c-7	Rep.	1961
29	Am.	1961	46c-7 (former- ly 46c-8)	Am.	1961
29b	New	1958	46c-8	New	1961
29c	New	1958	46c-1	Am.	1952
41a	Am.	1960	46c-3(2)	Am.	1961
§§ 2, 3	Am.	1961	46c-13	Am.	1952
§ 4	Am.	1952	52	Rep.	1954
§ 4(a)	New	1961	57	Am.	1954
§ 5	Am.	1952	57	Am.	1960
§ 8	Am.	1952	57	Am.	1961
§ 8	Am.	1961	69	Am.	1958
§§ 9, 10	Am.	1961	82a	New	1956
§ 12	Am.	1961	82a	Am.	1958
§ 13	Am.	1961	93b,		
§ 15	Am.	1952	§ 2	Am.	1956
§ 15	Am.	1961	§ 2(e)	Am.	1958
§§ 16, 18	Am.	1961	§ 3	Am.	1954
§ 20	Rep.	1961	§ 3	Am.	1956
§ 22	Am.	1961	§ 3	Am.	1958
§ 23	Am.	1961	§ 4	Am.	1956
§ 24	Am.	1961	§ 7	Am.	1954
46a,			§ 10	Am.	1954
§ 1a	Am.	1952	93c	New	1954
§§ 1b, 1c	New	1952	94 to 108	Rep.	1961
§ 5	Am.	1952	97	Am.	1950
§ 6	Am.	1952	108a	New	1961
§ 6	Am.	1961	117, § 3	Am.	1956
§ 9	Am.	1952	117a	Rep.	1954
46b	Am.	1952	118a,		
46c-1	Am.	1961	§ 3	Am.	1956
46c-3	Am.	1961	§ 9	Am.	1956
46c-4	Am.	1961	§ 12	Am.	1954
			§ 12	Am.	1956

**VERNON'S TEXAS STATUTES**

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
118b,			165a-8	New	1950
§ 24	Am.	1956	165a-9	New	1952
§ 24A	New	1956		Rep.	1954
118c-1,			165a-10	New	1954
§ 2	Am.	1956	§ 1	Am.	1956
§ 10	Am.	1954	165-3a	New	1961
§ 10	Am.	1956	165-4a	Am.	1950
118c-2,			§ 2	Am.	1952
§ 2	Am.	1956	§ 2	Am.	1960
§ 10	Am.	1954	165-4b	New	1950
§ 10	Am.	1956	165-6	New	1950
118c-2	Rep.	1958	165-7	New	1950
118c-3	New	1956		Rep.	1954
§ 2	Am.	1958	165-8	New	1958
§§ 5, 6	Rep.	1958	§ 9	Am.	1960
118d	New	1950	§ 9	Am.	1961
§ 6	Am.	1952	§ 15	Am.	1961
§ 9	Am.	1952	§ 16	Am.	1961
§§ 14-16	Am.	1952	§ 17	Am.	1961
note	New	1954	§ 17a	New	1961
118e	New	1950	§ 18	Am.	1961
119	Am.	1960	174	Am.	1961
120	Rep.	1960	176B	New	1950
121	Am.	1960	179a	New	1958
122	Am.	1960	179b	New	1958
123	Am.	1960	190a-2	New	1958
124	Am.	1960	190d-1	New	1960
125	Am.	1960	190j	New	1960
126	Am.	1960	192b	Am.	1952
127	Am.	1960	§ 1	Am.	1961
128	Am.	1960	193	Am.	1952
128a	New	1961	193	Am.	1961
129	Am.	1960	195	Am.	1952
130	Am.	1960	§§ 1, 2	Am.	1961
131	Am.	1960	197a	New	1958
131a	New	1960	199(5)	Am.	1952
132	Am.	1960	199(5)	Am.	1954
133	Am.	1960	199(5)	Am.	1961
134	Rep.	1960	199(6)	New	1958
135	Am.	1960	199(7)	Am.	1950
135b-1	Am.	1958	199(7)	Am.	1954
§ 7	Am.	1956	199(9)	Am.	1954
§ 8	Am.	1956	199(9)	Am.	1956
§ 10	Am.	1956	§ 9	Am.	1950
§ 15	Am.	1956	199(10)	Am.	1960
135b-2	New	1950	199(11)	Am.	1950
	Rep.	1952	199(11)	Am.	1952
135b-3	New	1952	199(11)	Am.	1956
	Rep.	1954	199(11)	Am.	1958
135b-4	New	1954	199(11)	Am.	1960
135b-4	Am.	1958	199(14)	Am.	1952
135c	New	1956	199(14)	Am.	1956
§ 1	Am.	1961	199(19),		
149j	New	1952	§§ 8-12	New	1950
149k	New	1952	§§ 8-12	Rep.	1952
165a-4,			199(25)		1956
§ 5(H)	Am.	1960	199(32)	New	1952
§ 7	Am.	1960	199(32)	New	1961
165a-4a	New	1961	199(33)	Am.	1956

ARTICLES AFFECTED FROM 1949 TO 1961

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
199(36)	Am.	1950	199(142)	Am.	1956
199(37)	Am.	1953	199(143)	New	1956
199(38)	Am.	1956	199(144)	New	1961
199(42)	New	1961	199(145)	New	1956
199(43), § 5	Am.	1960	199(146)	New	1960
199(51)	Am.	1950	199(150)	New	1958
§ 2	Am.	1954	199(153)	New	1956
199(58)	Am.	1956	199(154)	New	1958
199(62)	Am.	1956	199(155)	New	1958
199(63)	Am.	1952	199(156)	New	1958
199(64)	New	1958	199(160)	New	1958
199(70)	Am.	1950	199(161)	New	1960
199(72)	Am.	1960	200a,		
199(75)	Am.	1950	§ 1	Am.	1960
199(75)	Am.	1956	§ 2a	New	1961
199(76)	Am.	1950	§ 5a	New	1958
199(77)	Am.	1950	249a,		
199(79)	Am.	1950	§§ 2-5	Am.	1952
199(83)	Am.	1954	§§ 3-14	Am.	1956
199(85)	Am.	1950	§§ 7-10	Am.	1952
199(87)	Am.	1950	§§ 12, 13	Am.	1952
199(88)	New	1952	§ 14	Rep.	1952
199(88)	Am.	1956	260-1,		
199(90)	New	1961	§ 1	Am.	1956
199(102)	Am.	1954	§ 1(1)	Am.	1958
199(102)	Am.	1956	§ 2	Am.	1956
199(102)	Am.	1961	§ 4	Am.	1956
199(104)	New	1961	279a	Am.	1958
199(105)	Am.	1950	306	Am.	1956
199(105)	Am.	1952	307A	Am.	1958
199(106)	Am.	1960	307B	Am.	1961
199(107)	Am.	1950	319	Am.	1952
199(109)	Am.	1956	320a-1	Am.	1950
199(109)	Am.	1961	322c	New	1950
199(112)	Am.	1956	325b	New	1961
199(114) (l)	New	1954	326k-12	Am.	1950
199(115)	New	1950		Am.	1954
199(117), § 4	Rep.	1950	§ 1a	New	1958
199(118)	New	1950	§ 2-a	New	1952
199(120)	New	1958	§ 2b	New	1960
199(121)	New	1960	326k-13	New	1950
199(122)	New	1958	326k-14	New	1952
199(128)	New	1950	326k-14	Am.	1958
199(131)	New	1958	326k-15	New	1952
199(132)	New	1952	326k-15	Am.	1958
199(132)	Am.	1956	326k-16	New	1952
§ 6	Am.	1960	326k-17	New	1952
199(134)	New	1950	326k-17	Rep.	1958
199(135)	New	1952	326k-18		
199(135)	Am.	1954	to		
§ 1	Am.	1958	326k-21	New	1952
§ 3	Am.	1958	326k-19	Am.	1961
§ 5	Am.	1958	326k-21	Am.	1960
§§ 7-9	Am.	1958	326k-22		
199(136)	New	1956	to		
199(138)	New	1956	326k-26	New	1954
199(138)	Am.	1956	326k-27		
199(139)	Am.	1956	to		
199(140)	New	1958	326k-36	New	1956
199(142)	New	1956			



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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
326k-28, §§ 4, 5	Am.	1961	342-902	Am.	1958
326k-30a	New	1960	342-903	Am.	1958
326k-36a	New	1961	342-903	Am.	1960
326k-37	New	1958	548b	New	1956
326k-38	New	1958	579-1 to 579-42	New	1956
326k-38	Rep.	1961	579-1 to 579-42	Rep.	1958
326k-38a	New	1961	580-1 to 580-39	New	1956
326k-39	New	1958	580-1 to 580-39	Rep.	1957
326k-39	Rep.	1961	581-1 to 581-39	New	1958
326k-40	New	1958	581-5, subs. q	New	1960
§ 1	Am.	1961	581-22, par. A	Am.	1961
§ 2	Am.	1961	581-29	Am.	1961
326k-41	New	1960	581-35,		
326k-41a	New	1960	G	Am.	1960
326k-41a	Am.	1961	M	Am.	1960
326k-42	New	1960	582-1	New	1960
326k-43	New	1960	600a,		
326k-44	New	1961	§ 3	Am.	1950
326k-45	New	1961	§ 3	Am.	1952
326k-46	New	1961	§ 5	Am.	1952
326k-47	New	1961	§ 24	Am.	1952
331d	Am.	1950	§ 30	Am.	1954
331e	New	1950	600a	Rep.	1956
331f	New	1950	601	New	1954
331g	New	1952	602	Am.	1954
331g-1	New	1956	603-605	Rep.	1958
§ 2a	New	1960	613	Am.	1956
331h	New	1954	631-633	Rep.	1958
331i	New	1960	634	Am.	1956
331j	New	1961	(B)	New	1950
342-101A	New	1952	(C)	New	1952
342-104	Am.	1961	634	Rep.	1958
342-109	Am.	1960	634½	Rep.	1958
342-112	Am.	1952	634a	Rep.	1958
342-112A	New	1952	636-648	Rep.	1958
342-201			649	Am.	1956
to			649-652	Rep.	1958
342-205	Am.	1952	653	Am.	1956
342-205	Am.	1961	653-654	Rep.	1958
342-208	Am.	1952	655	Am.	1956
342-208A	New	1952	656	Rep.	1956
342-208A	Rep.	1960	659-664	Rep.	1958
342-301	Am.	1958	664-2	New	1958
342-301	Am.	1961	664-3	New	1958
342-303	Am.	1960	666	Am.	1950
342-314	New	1956	666	Am.	1958
342-402	Am.	1960	666-1	Am.	1950
342-404	Am.	1960	666-1	Rep.	1958
342-406	Am.	1960	666-2	New	1950
342-408	Am.	1960	666-2	Rep.	1958
342-501A	New	1958	666a-1	Rep.	1958
342-502	Am.	1960	666a-2	New	1958
342-504	Am.	1960	677	Rep.	1950
342-505a	New	1956	678	Am.	1952
342-507	Am.	1950	678d, § 1(a)	New	1961
342-507	Am.	1960	678m	New	1956
342-606	Am.	1960	678m-1	New	1958
342-704	Am.	1958	678m-2	New	1958
342-707a	Am.	1950	§ 1	Am.	1958

**ARTICLES AFFECTED FROM 1949 TO 1961**

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
678m-3	New	1958	709a	New	1954
678m-4	New	1960	709b	New	1961
681	Am.	1950	709c	New	1961
684-687	Rep.	1960	717	Am.	1952
688	Am.	1952	717f	New	1950
688a	New	1952	717g	New	1952
689	Am.	1952	717h	New	1952
689a-2	Am.	1952	717i	New	1954
689a-3	Rep.	1958	717j	New	1956
689a-4	Am.	1952	717j	Rep.	1961
689a-4a	New	1952	717j-1	New	1961
689a-5	Am.	1952	717k	New	1956
689a-5	Am.	1958	717l	New	1958
689a-6	Am.	1952	717m	New	1960
689a-7	Am.	1958	717n	New	1961
689a-8a	New	1958	725b	New	1961
689a-9a	New	1954	752a	Am.	1956
689a-17	Rep.	1958	752y-4	New	1958
689a-17a	New	1958	752y-5	New	1960
689a-18	Rep.	1958	784a, § 4	Am.	1960
689a-19a	New	1958	802g	New	1956
691	Am.	1952	802h	New	1961
692	Am.	1952	822	Rep.	1954
694	Am.	1950	835h	New	1950
695c,			835i	New	1952
§ 2(1) a	New	1958	835j	New	1950
§ 2(3)	Am.	1961	835k	New	1950
§ 4(7)	Am.	1952	835l	New	1952
§ 7A	New	1954	835m	New	1954
§ 8	New	1950	835n	New	1960
§ 8(a)	Am.	1954	836	Am.	1950
§ 14	Am.	1961	842a	Am.	1961
§ 15	Am.	1952	842b-842f	Rep.	1952
§§ 16-A			842g	New	1952
to			881a-8	Am.	1952
16-C	New	1958	881a-9	Am.	1950
§ 27(1)	Am.	1958	881a-9	Am.	1952
§ 27(1)	Am.	1960	881a-10	Am.	1950
§ 28	Am.	1958	881a-12	Am.	1952
§ 29	Am.	1954	881a-23	Am.	1954
§ 29-A	New	1960	881a-23	Am.	1958
695c note	Am.	1958	881a-24	Am.	1950
695g	New	1952	881a-25	Am.	1950
§ 1	Am.	1954	881a-37	Am.	1950
§ 1	Am.	1956	881a-44	Am.	1950
§§ 2-12	Am.	1954	881a-57	Am.	1950
§ 3	Am.	1956	881a-61	Am.	1950
§ 4	Am.	1956	881a-63	Am.	1950
§ 7	Am.	1956	881b	New	1950
§ 13a	New	1954	911a,		
695h	New	1956	§ 15	Am.	1961
§ 1(c)	Am.	1958	§ 16	Rep.	1961
§ 1(c)	Am.	1961	911b,		
695i	New	1958	§ 1a(1) (e)	New	1958
695j	New	1961	§ 1a(1) (e)	Am.	1958
702	Am.	1954	§ 1(i)	Am.	1961
703a	New	1956	912a-2	Am.	1952
703b	New	1958	912a-3	Am.	1952
708b-1	Am.	1950	912a-3	Am.	1956

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
912a—4	Am.	1952	1015g,		
912a—24	Am.	1956	§ 1	Am.	1956
912a—28			§ 5	Am.	1956
to			§ 13	Am.	1956
912a—33	New	1956	§§ 13(a) to 13(c)	New	1956
932	Rep.	1956	1015g—1	New	1961
966b	New	1952	1015h	New	1950
966c	New	1954	1015i	New	1954
§ 4	Am.	1956	1015j	New	1956
966d	New	1956	1015k	New	1960
966e	New	1958	1016	Am.	1961
966f	New	1960	1066b,		
§ 4	Am.	1960	§§ 1, 2	Am.	1952
966g	New	1960	§§ 1, 2	Am.	1960
966h	New	1961	§ 2a	New	1952
969a—1	New	1954	§ 2a	Am.	1960
969d	New	1954	1085a	Am.	1950
971a	New	1950	1085a	Am.	1952
973	Am.	1954	1105b, § 1	Am.	1952
973a	New	1950	1105c	New	1961
973b	New	1960	1109a,		
974a,			§ 2	Am.	1954
§ 1	Am.	1950	§ 6	Am.	1954
§ 3	Am.	1956	§ 7	Am.	1954
§ 10	Rep.	1950	1109e	New	1950
974c—2	New	1950	1109f	New	1956
974c—3	New	1950	1109f—1	New	1960
974c—4	New	1950	1109g	New	1956
974c—5	New	1961	1109h	New	1958
974c—6	New	1961	§ 4	Am.	1960
974d—2	New	1950	§ 4	Am.	1961
974d—3	New	1954	§ 5(d)	Am.	1960
974d—4	New	1956	1109i	New	1958
974d—5	New	1956	§ 1	Am.	1960
974d—6	New	1958	§ 3a	New	1960
974d—7	New	1958	1109i—1	New	1961
974d—8	New	1961	1109j	New	1960
974d—9	New	1961	1109k	New	1960
974e—7	New	1950	1110b	New	1950
974e—8	New	1952	1111a	New	1950
974g	New	1950	1111b	New	1950
§ 1	Am.	1954	§ 1	Am.	1952
974—1	New	1950	1111c	New	1952
974—2	New	1950	1112	Am.	1954
976a	New	1950	1113a	New	1950
976b	New	1950	1113a	Am.	1954
977	Am.	1950	1118n—5	New	1950
999a	New	1950	§ 1a	New	1956
1011	Am.	1950	1118n—6	New	1956
1011a	Am.	1960	1118n—7	New	1956
1011f	Am.	1950	1118n—8	New	1958
1011f	Am.	1954	1118n—9	New	1961
1011f	Am.	1961	1118q	New	1950
1011g	Am.	1960	1118r	New	1952
1011g	Am.	1961	1118s	New	1952
1011i	New	1958	1118t	New	1954
1015c—1	New	1956	1118u	New	1954
			1118v	New	1958
			1118w	New	1958

**ARTICLES AFFECTED FROM 1949 TO 1961**

<b>Civ.St. Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>	<b>Civ.St. Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>
1153a	New	1961	1269m,		
1154	New	1950	§ 9	Am.	1958
1161	Am.	1954	§ 12	Am.	1958
1170	Am.	1961	§ 13	Am.	1958
1170a	New	1952	§ 14	Am.	1950
1171	Rep.	1961	§ 14	Am.	1958
1174a-1	New	1952	§ 14(D)	Am.	1956
1174a-2	New	1954	§ 16	Am.	1952
1174a-3	New	1956	§ 16	Am.	1950
1174a-4	New	1960	§ 16a	New	1950
1174a-5	New	1961	§ 18	Am.	1956
1174a-6	New	1961	§ 20	Am.	1956
1174e	New	1961	§ 21	Am.	1956
1176b-3	New	1961	§ 22	New	1950
1182c-1	Am.	1950	§ 22a	New	1952
1182c-1	Am.	1958	§ 23	Am.	1952
§ 2a	New	1954	§ 25	Rep.	1958
§ 2b	New	1961	§ 26	Am.	1956
§ 4	Am.	1960	§ 26	Am.	1958
1182c-2	New	1958	§ 26(a)	New	1958
1182c-3	New	1958	§ 27(a)	Am.	1958
1182c-3	Rep.	1960	§ 27(b)	Am.	1952
1182c-4	New	1958	§ 27(b)	Am.	1956
1182c-5	New	1960	§ 28(a)	New	1952
1182c-6	New	1960	1273a	Rep.	1952
1182d-1	New	1960	1273b	New	1952
1187a-2	New	1956	1287a,		
1187c	New	1950	§ 3	Am.	1954
§ 7	Am.	1958	§§ 3a, 3b	New	1950
1187e, §§ 1-9	Am.	1960	§ 3a	New	1954
1187f	New	1961	1287-1	Am.	1950
1188	Am.	1958	§ 8	Am.	1958
1191	Am.	1958	§ 10	New	1958
1191a	New	1958	1302	Am.	1950
1196(a)	New	1950	(7)	Am.	1952
1197a	New	1954	(38)	Am.	1954
1200c	New	1950	§ 59	Rep.	1961
1200c	Am.	1961	(95)	Am.	1954
1200d	New	1956	(108)	New	1952
1266	Am.	1960	1302	Rep.	1961
1266	Am.	1961	1302-1.01		
1268a	New	1960	to		
1269b-2	New	1960	1302-6.26	New	1961
1269j-4	New	1952	1302a	Rep.	1952
1269j-5	New	1956	1302b to 1302i	Rep.	1961
§ 1	Am.	1958	1302d-1	New	1956
§ 4(a)	New	1961	1302g	New	1950
1269j-6	New	1956	1302h	New	1950
1269j-7	New	1958	1302i	New	1954
1269l, § 7-a	New	1952	1303, 1304	Rep.	1961
1269l-1	New	1950	1304a	Rep.	1961
1269l-2	New	1958	1305	Rep.	1961
§ 1	Am.	1961	1306	Rep.	1961
1269l-3	New	1958	1307	Rep.	1961
1269m,			1308-1314	Rep.	1961
§ 2	Am.	1958	1314	Am.	1952
§ 5a	New	1950	1314a	New	1960
§ 8	Am.	1950	1315-1317	Rep.	1961
§ 9	Am.	1950	1318-1320	Rep.	1961

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1321a	Rep.	1961	1538n	New	1952
1322-1326	Rep.	1961	1538n	Am.	1954
1327	Am.	1952	1577	Am.	1950
1327	Rep.	1961	1577	Am.	1954
1327a	New	1950	1577a	New	1952
1327a-1333	Rep.	1961	1577b	New	1961
1334a	Rep.	1956	1580 note	Am.	1950
1334b	New	1956	1580 note	Am.	1956
1334b	Rep.	1961	1580 note	Am.	1958
1335-1347	Rep.	1961	1580 note	Am.	1960
1352	Rep.	229	1581d	New	1950
1357	Rep.	1961	1581e	New	1950
1358	Rep.	1961	1605	Am.	1954
1358-1, 1359	Rep.	1961	1605a-1	New	1958
1360	Am.	1960	1605a-2	New	1961
1360-1379	Rep.	1961	1605a-3	New	1961
1380-1382	Rep.	1961	1606 note	New	1960
1383	Rep.	1961	1606b	New	1952
1384-1395	Rep.	1961	1606c	New	1952
1395a	New	1950	§ 1	Am.	1954
1396-1398	Rep.	1961	1630b	New	1954
1408	Rep.	1961	1630c	New	1958
1409	Rep.	1961	1641	Am.	1956
1410	Rep.	1961	1641c	New	1958
1411	Rep.	1961	1641d	New	1960
1412-1415	Rep.	1961	1641e	New	1961
1433	Am.	1950	1644a-1	New	1956
1433a	New	1950	1644c-1	New	1961
1434a,			1645	Am.	1950
§ 3	Am.	1960	1645	Am.	1956
§ 3	Am.	1961	1645a-1	Am.	1950
§ 5	Am.	1961	1645a-5	Am.	1950
§ 6	Am.	1961	1645a-8	New	1952
§ 8	Am.	1961	1645a-8	Am.	1954
§ 9	New	1961	1646b	New	1950
1436a	New	1950	1649	Am.	1956
1436b	New	1952	1651	Am.	1960
1438a	New	1952	1659a	New	1960
1478-1494	Rep.	1961	1665	Am.	1956
1499a	New	1952	1679	Am.	1960
1513a	New	1958	1696a	New	1956
1524a,			1702a-1	Am.	1958
§ 2	Am.	1952	1702b-6	Rep.	1950
§ 4	Am.	1950	1702e	New	1950
§ 7	Am.	1952	1702f	New	1950
§ 14	New	1960	1702g	New	1950
1524a-1	New	1952	1702h	New	1952
1528b,			1702i	New	1954
§ 3	Am.	1958	1728	Am.	1954
§ 12	Am.	1958	1817	Am.	1958
1528c	New	1950	1817a	New	1958
§ 2(7)	Am.	1954	1819	Am.	1958
§ 4(5)	Am.	1954	1821	Am.	1954
1529	Am.	1954	1827	Am.	1958
1529	Rep.	1961	1919	Am.	1952
1530	Rep.	1961	1919	Am.	1956
1531	Rep.	1961	1934a-10	Am.	1958
1532-1538n	Rep.	1961	1934a-12	New	1950
1538h	Am.	1956	1934a-13	New	1950

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1934a-14	New	1950	1070-339		
1934a-15	New	1951	§ 15	Am.	1950
§ 1(h)	Am.	1961	§ 17	Am.	1952
1934a-15(c)	Am.	1958	§ 17	Am.	1950
1934a-16	New	1960	1970-330A	New	1956
1969a-2	New	1952	§ 8	Am.	1950
§ 1	Am.	1961	§ 18	Am.	1950
1969a-3	New	1950	1970-340	New	1950
1970-31a	New	1952	1970-340.1	New	1958
1970-62a	New	1954	1970-341	New	1952
1970-62b	New	1961	1970-342	New	1954
§ 13	Am.	1961	1970-342	Am.	1961
1970-77	Am.	1961	1970-343	New	1950
1970-77 note	New	1961	1970-344	New	1958
1970-95	Am.	1961	1970-345	New	1958
1970-96	Am.	1961	§ 3	Am.	1960
1970-110a	New	1950	§ 11	Am.	1960
1970-110b	New	1952	§§ 14, 15	Am.	1961
§ 1	Am.	1961	§ 15a	New	1960
§ 2	Am.	1961	1970-346	New	1960
1970-110c	New	1958	1970-347	New	1960
§ 1	Am.	1961	1970a-1	New	1958
§ 2A	Rep.	1961	1994	Am.	1961
1970-110d	New	1961	1995		
1970-114	Am.	1950	(9)	Am.	1954
1970-115	Am.	1950	(9a)	New	1954
1970-122	Am.	1950	(17a)	New	1950
1970-122	Am.	1952	2031b	New	1960
1970-122	Am.	1956	2030a	Am.	1950
1970-138	Am.	1950	§ 1	Am.	1954
1970-141.1	New	1950	§ 1	Am.	1960
1970-141a	New	1952	§ 2	Am.	1954
1970-298b	New	1952	§ 4	Am.	1954
1970-300a	New	1950	2030c	Am.	1950
1970-301a	New	1952	2075	Am.	1950
1970-301b	New	1952	2093e	New	1950
1970-301c	New	1954	2094	Am.	1950
1970-301d	New	1958	2094	Am.	1958
1970-301e	New	1961	2095	Am.	1950
1970-305,			2095	Am.	1960
§ 7	Am.	1956	2096	Am.	1960
§ 7	Am.	1960	2097	Am.	1960
1970-305a	New	1952	2099	Am.	1960
1970-305b	New	1954	2101,		
1970-310 note	Am.	1958	§ 4	New	1961
1970-310 note	Am.	1960	2102	Am.	1961
1970-311a	New	1956	2122	Am.	1951
1970-318a	New	1952	2133	Am.	1957
1970-324	Am.	1950	2135	Am.	1950
1970-325	New	1950	(4)	Am.	1954
1970-333a	New	1956	(17)	New	1958
1970-336	New	1950	2168a	Am.	1950
1970-337	New	1950	2226	Am.	1950
1970-338	New	1950	2226	Am.	1954
1970-338A	New	1960	2268a	New	1950
1970-339	New	1950	2320b, § 4	Rep.	1952
§ 5	Am.	1954	2320c	New	1950
§ 5	Am.	1956	2323a	New	1952
§ 8	Am.	1956	2324	Am.	1956

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2324	Am.	1961	2338-8	New	1958
2325	Rep.	1956	§ 2	Am.	1958
2326	Am.	1950	§ 6	Am.	1958
2326	Am.	1954	§ 9	Am.	1958
2326a	Am.	1958	2338-9	New	1958
2326i	New	1950	§ 21	New	1960
2326j	New	1950	§ 22	New	1960
2326j	Am.	1958	2338-9a	New	1960
2326j-1	New	1958	2338-10	New	1960
2326j-1	Am.	1958	2338-11	New	1960
2326j-2	New	1958	§ 16-A	New	1960
2326j-3	New	1960	2338-12	New	1960
2326j-4	New	1960	2338-13	New	1960
2326j-5	New	1960	2338-14	New	1961
2326j-6	New	1960	2350,		
2326j-7	New	1960	§ 2a	New	1950
2326j-8	New	1961	§ 2b	New	1952
2326j-9	New	1961	2350(6)	Am.	1950
2326j-10	New	1961	2350(6)	Am.	1954
2326j-11	New	1961	2350m,		
2326j-12	New	1961	§ 3a	New	1956
2326j-13	New	1961	§ 3b	New	1956
2326j-14	New	1961	2350n	New	1952
2326k	New	1952	2350n	Rep.	1960
2326k combined with 2326		1954	2350o	New	1960
2326l	New	1958	2351	Am.	1950
2326m	New	1960	2351a-1	Am.	1961
2326n	New	1960	2351a-4	New	1950
2327c	New	1950	2351a-5	New	1952
2327d	New	1952	2351a-6	New	1958
2327d	Am.	1956	§ 12	Am.	1960
2328a, § 3	Am.	1954	2351d	New	1950
2328b-1	New	1952	2351e	New	1950
§ 2-A	New	1954	2351f	New	1952
2328b-2	New	1952	2351g	New	1956
2328b-3	New	1952	2351h	New	1958
§ 8	Am.	1954	2352d	Am.	1956
§ 11	Am.	1954	§ 1	Am.	1952
§ 12	Am.	1954	2352e	New	1961
2329	Rep.	1950	2367a	New	1960
2338-1	Am.	1950	§ 2	Am.	1960
§ 4	Am.	1952	2368a,		
§ 4	Am.	1954	§ 2	Am.	1950
§ 13-B	New	1960	§ 2a	New	1954
2338-2	New	1950	§ 2b	New	1954
§ 1	Am.	1960	§§ 5, 6	Am.	1952
2338-2a	New	1958	2368a-1	New	1950
2338-3	New	1950	2368a-2	New	1954
§§ 2-4	Am.	1952	2368a-3	New	1954
§§ 6-9	Am.	1952	2368a-4	New	1956
§§ 12-14	Am.	1952	2368a-5	New	1958
2338-3a	New	1958	2368a-6	New	1960
2338-4	New	1952	2368a-7	New	1961
2338-5	New	1954	2368a-8	New	1961
2338-6	New	1954	2368f	New	1950
2338-7	New	1956	2370a	New	1950
2338-7a	New	1958	2370a	Expired	1952
			2370b	New	1958
			2371	Am.	1952

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2372a-1	New	1954	2603a,		
2372d-2	New	1950	§ 4	Am.	1958
§ 1	Am.	1961	§ 5	Am.	1958
2372d-3	New	1952	§ 8	Am.	1958
2372f-1	New	1961	2603b-2	New	1961
2372h, § 6	Am.	1959	2603b-3	New	1961
2372h-1	New	1960	2603f-1	New	1960
2372h-2	New	1960	2603g	New	1954
2372i	New	1950	2603h	New	1958
2372j	New	1950	2603i	New	1960
2372k	New	1952	2603j	New	1961
2372l	New	1954	2605	Rep.	1952
2372m	New	1956	2606b	New	1950
2372m	Am.	1956	2606c	New	1960
2372n	New	1956	2613	Am.	1952
2372o	New	1960	2613a-3	Am.	1954
2372p	New	1961	§ 1	Am.	1958
2372q	New	1961	2613a-7	New	1956
2428	Am.	1953	2613a-8	New	1958
2460a	New	1954	2613c	New	1956
§ 5	Am.	1956	2614	Am.	1960
§ 5a	New	1956	2615b, § 4A	Rep.	1960
2461	Am.	1950	2615d	New	1950
2462	Am.	1950	2615d	Am.	1958
2464	Am.	1950	2615e	New	1950
2465	Am.	1950	2615f	New	1955
2465	Am.	1952	2615g	New	1961
2465	Am.	1954	2616a	New	1950
2465	Am.	1960	2618	Am.	1954
2465	Am.	1961	2618	Am.	1960
2468	Am.	1950	2620	Am.	1950
2469	Am.	1950	2620a	New	1950
2470	Am.	1950	2621a	New	1960
2470	Am.	1961	2623c-1		
2471	Am.	1950	to		
2471	Am.	1961	2623c-7	New	1960
2477	Am.	1950	2623c-8	New	1961
2477	Am.	1954	2624	Am.	1958
2481	Am.	1958	2624b	New	1958
2482	Am.	1958	2624c	New	1958
2482	Am.	1961	2628d	New	1956
2483	Am.	1954	2632d	New	1954
2484	Am.	1950	2632e	New	1958
2484	Am.	1954	§ 1	Am.	1958
2484b	New	1950	2632f	New	1961
2529	Am.	1956	2633a	New	1950
2530a	New	1954	2637j	New	1952
2543c	Am.	1952	2643b-1	New	1952
2553	Am.	1950	2643d	New	1950
2558a, § 4a	Am.	1960	§ 1	Am.	1956
2570-2583	Rep.	1956	2643d-1	New	1961
2583a	New	1952	2643e	New	1950
2583a	Rep.	1956	2643f	New	1952
2589d	New	1954	2643f-1	New	1956
2589e	New	1954	2643g	New	1954
2589f	New	1960	2643g	Am.	1956
2592a	New	1950	2643g-1	New	1961
2597	Am.	1950	2647	Am.	1950
			2647c	Am.	1950



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2647d-2647g	New	1950	2744e-4,		
2647h	New	1958	§ 5	Am.	1952
2647i	New	1961	§ 7	Am.	1952
2650	Rep.	1954	2744e-5	New	1950
2651a	New	1950	2744e-6	New	1950
2651a	Am.	1961	2745b	New	1950
2651b	New	1961	2745b	Am.	1960
2652	Rep.	1954	2745c	New	1958
2654.1	New	1960	2745c	Am.	1960
2654a	Am.	1960	§ 1a	Am.	1961
2654b-1,			2746	Am.	1950
§ 1	Am.	1960	2746a	Am.	1958
§ 5	New	1954	2746c	New	1960
2654c	Am.	1958	2750a-2	New	1954
§ 1	Am.	1961	2750a-2	Am.	1956
2654c(6)	Am.	1954	2756c	New	1954
2654d-1	New	1950	§ 2a	New	1958
2654d-1	Am.	1958	2757	Am.	1960
2654f	New	1950	2757	Am.	1961
2654-1 to 2654-7	New	1950	2763	Am.	1952
2654-1,			2763a	Am.	1961
§ 4	New	1952	2766a	New	1956
§ 4a	New	1954	2766b	New	1961
2654-1a	New	1960	2767	Am.	1956
2654-1b	New	1960	2767-1	New	1956
2654-3a	New	1952	2773	Am.	1954
§ 1	Am.	1956	2774b	New	1952
2654-3b	New	1961	2774c	New	1954
2663b-2	New	1956	2774d	New	1958
2668a	New	1961	2775a	New	1954
2669	Am.	1961	2775a-1	New	1956
2671	Am.	1956	2775a-2	New	1960
2673	Am.	1956	2775b	New	1960
2673	Am.	1961	2775c	New	1960
2673a-2673i	New	1950	2775d	New	1961
2675-1,			2777d	Am.	1950
§ 3	New	1961	§ 4a	New	1960
2675-1 note	New	1950	2777d-1	New	1960
2675c-1	New	1956	2777d-2	New	1961
2675c-1	Rep.	1960	2777f	New	1961
2675c-2	New	1960	2779b	New	1954
2676	Am.	1958	§ 1	Am.	1956
268c	New	1950	2783c,		
2688c	Am.	1954	§ 1	Am.	1952
2688c	Am.	1958	§ 2	Am.	1952
2688c	Am.	1961	§§ 4-6	Am.	1952
§ 2	Am.	1952	§ 8	Am.	1952
2688c	Rep.	1961	2783d,		
2688d	New	1961	§ 5	Am.	1954
2688e	New	1961	§ 6	Am.	1950
2688f,			§ 6a	New	1961
§ 1-3	New	1961	2783e	New	1950
2696	Am.	1954	2783f	New	1954
2698	Am.	1954	2783g	New	1961
2700	Am.	1950	2784e-1	New	1956
2701	Am.	1954	2784e-1	Am.	1958
2741a	New	1960	2784e-2	New	1960
2742o	New	1950	2784e-3	New	1960
2744a-1	New	1950	2784e-3	Am.	1961
			2784e-4	New	1960

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2784f	New	1950	2815g-54	New	1961
2784g	New	1954	2815g-55	New	1961
§ 4	Rep.	1960	2815h,		
2785	Am.	1954	§ 7a(1)	New	1952
2786	Am.	1958	§ 7b	Am.	1950
2786c	New	1952	§ 17	Am.	1958
2786d	New	1954	§ 17	Am.	1960
2786d	Am.	1958	§ 17(a)	Am.	1950
2786e	New	1954	§ 17(a)	Am.	1958
2786f	New	1954	§ 18	Am.	1960
2788a	New	1950	§ 19	Am.	1960
§ 1	Am.	1958	§ 21	Am.	1960
2789	Am.	1950	§ 21a	New	1961
2787d	New	1952	2815h-6	New	1950
2789e	New	1958	2815h-7	New	1952
2790a-6	New	1950	2815h-8	New	1958
2790d-8	New	1950	2815h-9	New	1960
2790d-9	New	1960	2815h-10	New	1961
2790e, § 11	Am.	1956	2815j-2	New	1950
2790l	New	1950	2815k,		
2790m	New	1950	§ 6	Am.	1950
2790n	New	1960	§ 8(1)	New	1950
2802-1	New	1956	2815k-1	Am.	1952
2802e-1	Am.	1950	2815k-2	New	1960
2802e-1	Am.	1952	2815k-3	New	1961
2802e-1	Am.	1956	2815m-1	New	1950
2802f-3	New	1954	2815n	New	1950
2802i-28	New	1950	§ 1(a)	New	1961
2802i-29	New	1952	§ 2a	New	1958
2802i-30	New	1958	§ 2(a)	New	1961
2802i-31	New	1960	§ 3	Am.	1961
2802j	New	1952	§ 5	Am.	1961
2803c	New	1950	§ 7	Am.	1961
2803d	New	1960	2815o-2815s	New	1950
2804a	New	1954	2815o-1	New	1952
2805a	New	1950	2815o-1a	New	1960
2806d	New	1950	2815r, §§ 3, 4	Am.	1952
2806d-1	New	1960	2815r-1	New	1956
2806e	New	1950	§ 1	Am.	1961
2806e	Am.	1956	§ 5a	New	1958
2815-2	New	1950	§ 6a	New	1958
2815-2	Rep.	1952	2815s-1	New	1956
2815-3	New	1961	2815t	New	1952
§ 1a	Am.	1961	§ 15a	New	1961
2815g-1a	Am.	1952	2815t-1	New	1960
2815g-1b	New	1958	2816	Am.	1954
2815g-39			2816a	Am.	1954
to			2817	Am.	1954
2815g-43	New	1950	2817a	Am.	1954
2815g-44			2819	Am.	1954
to			2820	Am.	1954
2815g-46	New	1952	2821	Am.	1950
2815g-47	New	1954	2821	Am.	1954
2815g-48	New	1956	2822a	Am.	1954
2815g-49	New	1956	2827b	New	1960
2815g-50	New	1956	2832	Am.	1960
2815g-51	New	1958	2833	Am.	1956
2815g-52	New	1960	2835c	New	1954
2815g-53	New	1961	2843	Am.	1956

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2843	Am.	1960	2922-1	Am.	1956
2843	Am.	1961	§ 1(18)	Am.	1961
2844	Rep.	1950	§ 1(19)	Am.	1952
2844a	Rep.	1950	§ 4(4)	Am.	1961
2851	Am.	1954	§ 4(5)	Am.	1958
2859	Rep.	1954	§ 5	Am.	1952
2874	Am.	1954	§ 5(1)	Am.	1954
2875	Am.	1956	§ 5(2)	Am.	1954
2875	Am.	1958	§ 5(4)	Am.	1954
2876c	Am.	1954	§ 5(7)	Am.	1954
2876k	New	1958	§ 6(2b)	Am.	1960
2876k	Am.	1960	§ 7(4)	Am.	1961
2877	Am.	1954	§ 8	Am.	1954
2880a	Rep.	1956	§ 10(5b)	Am.	1960
2882	Rep.	1956	2922-1a	New	1954
2883	Rep.	1956	2922-1b	New	1960
2890	Rep.	1956	2922-1b	Am.	1961
2891	Rep.	1956	2922-1c	New	1960
2891b	New	1956	2922-2 to 2922-8	Rep.	1952
2898-1	Rep.	1952	2922-11		
2900a	New	1958	to		
2901a	New	1958	2922-22	New	1950
2906	Am.	1958	2922-13,		
2906-1	New	1958	§ 1(4)	Am.	1952
2906-2	New	1958	§ 1(4)	Am.	1954
2906-3	New	1958	§ 1(4) a	Am.	1958
2908b	New	1950	2922-13a	New	1960
§§ 2, 3	Am.	1952	2922-13b	New	1961
2909b	New	1953	2922-13c	New	1961
2909c	New	1953	2922-14	Am.	1958
§ 8(a)	New	1960	§ 1	Am.	1961
2909d	New	1958	§ 1-a	New	1956
2911	Am.	1956	§ 1-b	New	1956
2919	Am.	1961	§ 1-c	New	1956
2919c	New	1950	§ 2	Am.	1961
2919d	New	1952	2922-15,		
§ 2	Am.	1960	§ 1	Am.	1954
§ 5a	New	1956	§ 1	Am.	1961
2919e	New	1954	§ 2	Am.	1952
2919e-1	New	1956	§ 2	Am.	1958
2919e-2	New	1956	§ 2(2) (a) (b)	Am.	1961
§ 18	New	1960	2922-16,		
2919f	New	1956	§ 1	Am.	1961
2919g	New	1958	§ 2	Am.	1956
2919h	New	1960	§ 2	Am.	1961
2922a	New	1950	§ 3	Am.	1954
2922f	Am.	1950	§ 4	Am.	1956
2922f	Am.	1958	§ 4	Am.	1961
2922l			§ 4A	New	1961
(3)	New	1950	§ 5	Am.	1956
(4)	New	1950	§ 5	Am.	1961
(5)	New	1952	2922-16a	New	1958
(6)	New	1952	2922-16b	New	1961
(6), § 1	Am.	1953	2922-16c	New	1961
(7)	New	1953	2922-16d	New	1961
(8)	New	1956	2922-21a	New	1961
(8)	Am.	1958	2922-21b	New	1961
2922-1	Am.	1950	2922-23	New	1952
			2922-24	New	1958
			2923-2942a	Rep.	1952

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2943	Am.	1952	3177	Am.	1952
2944-2956	Rep.	1952	3179a	New	1960
2956a	New	1950	3183a	Am.	1950
2956a	Rep.	1952	3183b-1	New	1960
2957-2977	Rep.	1952	3183c	New	1952
2977a	Inoperative	1950	3183d	New	1954
2978	Rep.	1952	3183d	Rep.	1960
2978a	Am.	1950	3183e	New	1956
2978a	Rep.	1952	3183f	New	1961
2978b	New	1950	3186	Rep.	1958
2978b	Rep.	1952	3186a	Rep.	1958
2980	Am.	1950	3193	Rep.	1958
2980-2997c	Rep.	1952	3193-1	New	1956
2997d	New	1950	3193-1	Rep.	1958
2997d	Rep.	1952	3194-3196	Rep.	1958
2998-3007	Rep.	1958	3196b	New	1950
3008	Am.	1950	3196c	New	1952
3008-3011	Rep.	1952	3196c-1	New	1958
3012	Am.	1950	3196d	New	1952
3012-3026	Rep.	1952	3196d	Rep.	1958
3026a	Am.	1950	3201a	New	1954
3026a	Am.	1952	3201b	New	1954
3027	Rep.	1952	3201b-1	New	1956
3028	Am.	1950	3202-a	Am.	1954
3028	Rep.	1952	3202-c	New	1950
3029-3040	Rep.	1952	3205a	New	1950
3040a	New	1950	3206	Rep.	1954
3040a-3083	Rep.	1952	3207a	Am.	1950
3084	Am.	1950	3207a	Am.	1958
3084-3105	Rep.	1952	3207a, § 1	Am.	1958
3106	Am.	1950	3207b	New	1950
3106-3108	Rep.	1952	3220-1	Rep.	1954
3109	Am.	1950	3222a	New	1958
3109-3116f	Rep.	1952	3222b	New	1961
3116g	New	1952	3223-3232	Rep.	1950
3117-3121	Rep.	1952	3232a	New	1950
3122-3124	Am.	1950	3232a	Rep.	1958
3122-3127	Rep.	1952	3232b	New	1958
3128	Am.	1950	3232c	New	1961
3128-3153	Rep.	1952	3233-3238	Rep.	1956
3153a	New	1950	3238b	New	1952
3153a-3154	Rep.	1952	3238b	Rep.	1960
3154(a)	New	1952	3238c	New	1956
3155-3158	Rep.	1952	3238c	Rep.	1960
3158a	New	1952	3239	Rep.	1960
3158a	Am.	1960	3240-3246	Rep.	1960
3159-3173	Rep.	1952	3241	Am.	1954
3174a	New	1950	3248-3251a	Rep.	1960
3174a note	New	1961	3252-3254	Rep.	1954
3174b	New	1950	3254a	Rep.	1960
§ 8	Am.	1960	3254a-1	Am.	1950
3174b-1	New	1956	3254a-1	Rep.	1960
3174b-1	Rep.	1958	3254c	Am.	1950
3174b-2	New	1956	3254c-1	New	1952
3174b-3	New	1956	3254d,		
3174b-4	New	1958	§ 16	Am.	1950
§ 8	Am.	1961	§ 17	New	1950
3174b-5	New	1961	3254d	Rep.	1960
3174b-6	New	1961	3254d-1	New	1952
3174c	New	1960	3254d-1	Rep.	1960

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3255b	New	1952	3888	Am.	1954
3263a	Rep.	1954	3888b	New	1954
3263c	New	1950	3899b, § 3	Am.	1954
3263d	New	1961	3902f-1	New	1954
3264,			3902f-2	New	1961
subd. 6	Am.	1961	3902h-2	New	1958
3266(3)	Am.	1956	3902i	New	1950
3266(3)	Am.	1960	3902j	New	1952
(6)	Am.	1961	3902j	Am.	1958
(7)	Am.	1961	3903e	New	1950
(8)	New	1961	3912e,		
3271a,			§ 1	Am.	1960
§ 12a	New	1961	§ 3	Am.	1960
3272a	New	1961	§ 13	Am.	1950
3273	Am.	1961	§ 15	Am.	1950
3284	Am.	1961	§ 17	Am.	1950
3290-3703	Rep.	1956	§ 19(g)	Am.	1953
3582a	New	1952	3912e-4b	New	1950
3597a	New	1950	3912e-4c	New	1952
3726a	New	1958	3912e-4d	New	1954
3731a	New	1952	3912e-4d	Am.	1956
3731a	Am.	1961	3912e-5a	New	1956
§ 7	Am.	1954	3912e-5a	Rep.	1958
3731b	New	1958	3912e-5b	New	1953
3731c	New	1960	3912e-5c	New	1958
3737d	New	1950	3912e-5d	New	1961
3737d	Rep.	1956	3912e-14		
3737d-1	New	1956	to		
§ 1	Am.	1960	3912e-16	New	1950
3737e	New	1952	3912e-17	New	1961
3867-3871	Rep.	1956	3912e-18	New	1961
3871a	New	1956	3912e-19	New	1961
3871b	New	1953	3912f-4	New	1950
3871c	New	1958	3912g	New	1950
3871d	New	1961	3912h	New	1950
3872	Am.	1954	3912i	New	1953
3875	Am.	1954	3913	Am.	1961
3881a-3881d	New	1954	3914	Am.	1961
3881e	New	1958	3918	Am.	1956
3883f-1	New	1961	3918	Am.	1961
3883h	New	1956	3919	Rep.	1961
3883i	New	1956	3920	Rep.	1952
3883i	Am.	1958	3921	Am.	1952
§ 1(a)	Am.	1961	3921a	New	1952
§ 4(a)	New	1961	3924	Am.	1950
§ 5	Am.	1960	3927	Am.	1958
§ 7a	New	1960	3927a	New	1958
§ 8	Am.	1960	3930	Am.	1958
§ 8(b)	New	1961	3930a	New	1961
3886f	Am.	1950	3930a note	New	1961
§ 1	Am.	1956	3936f-1	New	1961
§ 3a	New	1956	3936g	New	1950
3886g	New	1952	3936g-1	New	1952
3886h	New	1954	3936h	New	1950
3886h	Am.	1958	3936h	Am.	1952
3886h	Am.	1960	3936i	New	1952
3886i	New	1961	3936j	New	1954
3887b	New	1954	3936k	New	1954
3888	Am.	1952	3937	Am.	1950

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3037	Am.	1952	4418		
3039	Am.	1950	(4a)	New	1958
3039	Am.	1952	(18a)	New	1958
3943d	New	1952	(29a)	New	1950
3943e	New	1952	(20b)	New	1958
3945	Am.	1960	(31), § 1	Am.	1952
3959	Am.	1950	(32)	New	1954
3959a	New	1950	(33)	New	1958
3972a	Inoperative	1952	4418b-1	New	1950
3975a	New	1958	4418c-1	New	1961
4000	Am.	1950	4417a	Am.	1960
4001	Am.	1961	4418b	Am.	1958
4025a	New	1952	4418b-1	New	1956
4025b	New	1958	4419c,		
4026b	New	1956	§ 1	Am.	1961
4032	Rep.	1952	§ 3	Am.	1961
4032a	Rep.	1950	4436	Am.	1960
4032b	New	1950	4436a-1, § 1	Am.	1958
4032b-1	New	1958	4436a-4	New	1960
4032c	New	1956	4437a,		
4050c	New	1950	§ 3	Am.	1952
4050c-1	New	1958	§ 6A(c)	Am.	1956
4050d	New	1952	4437c-1	New	1954
4075a	New	1950	4437e	New	1958
4075b	New	1960	4437f	New	1960
4102-4123a	Rep.	1956	4440	Rep.	1960
4123a-1	Am.	1950	4442	Rep.	1960
4123a-1 to 4167	Rep.	1956	4442b	Rep.	1954
4168	Am.	1950	4442c	New	1954
4168-4191	Rep.	1956	§ 2(a)	Am.	1960
4192	Am.	1952	4444	Rep.	1961
4192	Rep.	1953	4445,		
4192a	Rep.	1959	§ 3	Am.	1950
4192b	New	1950	§ 4	Am.	1950
4192b-4284	Rep.	1950	4445a	New	1950
4285	Am.	1954	4447a	New	1950
4285-4329	Rep.	1953	4447a	Am.	1960
4331, § 8	Rep.	1952	4447b	New	1960
4335	Am.	1952	4447c	New	1960
4336	Am.	1952	4469	Am.	1961
4341a	New	1952	4470-4473	Rep.	1961
4344b	New	1960	4473	Am.	1952
4346	Am.	1951	4476-3,		
4346a	New	1960	§ 3(a, b, c)	Am.	1958
4348a	New	1960	§ 8	Am.	1958
4353	Am.	1952	§ 14a	New	1953
4357	Am.	1954	4476-4	New	1960
4357	Am.	1958	4476-5	New	1961
4357	Am.	1960	4476a,		
4358	Am.	1954	§ 1	Am.	1950
4359	Am.	1954	§ 2	Am.	1950
4365	Am.	1954	§ 2	Am.	1954
4379b, § 3	Am.	1951	§ 2	Am.	1960
4382	Am.	1954	§ 2(e)	Rep.	1958
4382a	New	1954	§ 4	Am.	1950
4386c	New	1954	§ 4(c)	Am.	1956
§ 1	Am.	1956	§ 5	Am.	1950
4386d	New	1954	§ 5	Am.	1960
4393b	New	1954	§ 6	Am.	1961
4412a	New	1960			

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4476a,			4494q-3	New	1960
§ 7	Am.	1956	§ 1	Am.	
§ 9	Am.	1950	§ 2	Am.	1961
4477,			§ 3	Am.	1961
rule 3	Am.	1960	§ 4	Am.	1961
rule 4	Am.	1960	§ 5(d)	Am.	1961
rule 14	Am.	1960	4494q-4	New	1961
rule 20	Am.	1960	4494q-5	New	1961
rule 23	Am.	1960	4494q-6	New	1961
rule 25	Am.	1960	4494q-7	New	1961
rule 34a	Am.	1952	4498a	New	1954
rule 35a	Am.	1950	4499	Am.	1954
rule 36a	Am.	1952	4499a	New	1954
rule 38a	Am.	1952	4500	Am.	1954
rule 39a	Am.	1952	4501	Am.	1952
rule 39a	Am.	1958	4501	Am.	1954
rule 40a	Am.	1952	4502	Am.	1954
rule 43a	Am.	1952	4504	Am.	1950
rule 47a	Am.	1952	4506	Am.	1954
rule 47a	Am.	1958	4507	Rep.	1954
rule 47b	New	1960	4508	Rep.	1954
rule 51a	Am.	1952	4509	Am.	1954
rule 51a	Am.	1958	4510	Am.	1950
rule 51a	Am.	1960	4510	Am.	1954
rule 53a	Am.	1952	4512b	New	1950
rule 54a	Am.	1950	§§ 4a, 4b	New	1958
rule 54a	Am.	1952	§§ 8a, 8b	New	1958
rule 54a	Am.	1958	§ 11	Am.	1958
rule 54a	Am.	1961	§ 14	Am.	1958
rules 77-86	Rep.	1952	§ 14a	New	1958
4477a	New	1952	4518	Am.	1960
4477-1,			4518a	Rep.	1960
§ 5(c)	Am.	1952	4521	Am.	1961
§ 15(a)	Am.	1961	4526	Am.	1950
4477-2	New	1950	4528b	New	1950
§ 1	Am.	1961	4528c	New	1952
§ 2	Am.	1961	§ 3a	New	1958
§ 4	Am.	1961	§ 4(c)	Am.	1958
§ 6A	New	1956	§ 4½	Am.	1958
4477-11	New	1960	§ 5	Am.	1958
4478a	New	1954	§ 8	Am.	1958
4479	Am.	1961	§ 9	Am.	1956
4492	Am.	1954	§ 9	Am.	1958
4494h	Am.	1950	§ 10	Am.	1958
4494k	New	1950	§ 13	Am.	1956
4494l	New	1950	4542a	Am.	1954
§ 4	Am.	1956	§ 3	Am.	1960
4494m	New	1950	§ 4	Am.	1952
4494n	New	1954	§ 7	Am.	1958
4494n	Am.	1956	§ 8	Am.	1952
§ 5a	New	1960	§ 8	Am.	1960
4494n-1	New	1960	§ 9	Am.	1952
4494o	New	1958	§ 9	Am.	1960
4494p	New	1958	§ 11	Am.	1960
4494q	New	1960	§ 12	Am.	1958
§ 1	Am.	1961	§ 12	Am.	1960
§ 2	Am.	1961	§ 13	Am.	1958
4494q-1	New	1960	§ 14	Am.	1952
4494q-2	New	1960	§ 14	Am.	1960
			§ 16	Am.	1960

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4542a,			4590d	New	1950
§ 17	Am.	1952	4590d	Rep.	1961
§ 17	Am.	1959	§ 10	Am.	1954
§ 17	Am.	1960	§ 11(1)	Am.	1952
§ 19	Am.	1952	§ 19a	New	1954
§ 20	Am.	1958	4590e	New	1952
4542b	New	1958	4590f	New	1961
4544	Am.	1961	4591	Am.	1952
4540	Am.	1952	4591	Am.	1958
4550a,			4591d,		
par. 1	Am.	1961	§ 1a	New	1956
pars. 3, 4	Am.	1961	§ 1b	New	1958
4551	Am.	1958	§ 1c	New	1956
4551a	Am.	1952	§ 1c	Am.	1958
4551a	Am.	1954	4591e	New	1958
(5)	New	1956	4594	Am.	1956
(6)	New	1960	4597-4601	Rep.	1954
(7)	New	1960	4602	Am.	1958
4551b	Am.	1952	4605	Am.	1960
4551b	Am.	1954	4612a	New	1950
4551b	Am.	1958	4614	Am.	1958
(8)	New	1961	(d)	Am.	1961
4551c	Am.	1954	4616	Am.	1958
4551d	New	1952	4617	Am.	1958
4551e	New	1952	4618, § 6	New	1960
§ 1	Am.	1958	4623	Am.	1958
§ 3	Am.	1958	4624a	New	1950
§ 5	Am.	1961	4629	Am.	1954
§ 10(e)	Am.	1958	4631	Am.	1958
§ 10(h)	Am.	1958	4632	Am.	1956
§ 15	Am.	1958	4639a	Am.	1954
4551f	New	1960	§ 1	Am.	1961
4551g	New	1960	4639a-1	New	1961
4561	Am.	1952	4639b	New	1956
4562	Am.	1952	4639c	New	1960
4565	Am.	1952	4679-4698a	Rep.	1952
4565-a	Am.	1952	4682b, § 1A	New	1950
4565d(1)	Am.	1958	4698b	New	1959
4565g	Am.	1958	4698b-4704	Rep.	1952
4567	Am.	1952	4705	Am.	1950
4569	Am.	1952	4705-4724	Rep.	1952
4570	Am.	1952	4725	Am.	1950
4571	Am.	1952	4725-4764b	Rep.	1952
4572	Rep.	1952	4764c	New	1950
4575	Am.	1952	4764c, 4765	Rep.	1952
4576a-4581	Rep.	1954	4766	Am.	1950
4582a	Rep.	1954	4766-4768	Rep.	1952
4582b	New	1954	4769	Am.	1950
4584	Am.	1954	4769	Am.	1952
4584	Am.	1961	4769½	New	1952
4590-1	New	1960	4769a	New	1952
§ 2	Am.	1961	4770 to 4860a-10	Rep.	1952
4590a	Rep.	1952	4860a-20	Am.	1950
4590c	New	1950	4860a-20 to 4928	Rep.	1952
§ 4	Am.	1957	4929	Am.	1950
§ 4	Am.	1960	4929	Rep.	1952
§ 5	Am.	1957	4929a	New	1950
§ 5	Am.	1960	4929a to 4931	Rep.	1952
§ 7	Am.	1952	4932	Am.	1950
§ 8	Am.	1956	4932-5012	Rep.	1952



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5012a	Am.	1950	5142b,		
5012a-5068b	Rep.	1950	§ 7	Am.	1950
§ 7	Am.	1950	§ 15	Am.	1950
5068c, 5068d	Rep.	1952	§ 15	Am.	1956
5068e	New	1950	§ 17	Am.	1950
5068e to 5068-7	Rep.	1952	5142c	New	1950
5074a	New	1952	§ 5	Am.	1956
5115	Am.	1958	5142c-1	New	1950
5115a	New	1961	5142c-2	New	1956
5118a	New	1956	5142d	New	1950
5138b	New	1961	5143c	New	1950
5139	Am.	1950	§ 4	Am.	1956
5139	Am.	1954	§ 5	Am.	1956
5139A	New	1952	5143d	New	1958
5139A	Am.	1958	5154g	New	1956
5139B	New	1952	5155	Am.	1958
5139D	New	1950	5159c	New	1956
5139(E)	New	1950	5160	Am.	1960
5139(E)	Am.	1952	5161-5164	Rep.	1960
5139E-1	New	1961	5165a	New	1954
5139F	New	1952	5172a,		
5139F	Am.	1958	§ 5	Am.	1954
5139G	New	1952	§ 5	Am.	1961
5139G	Am.	1956	§ 5a	Am.	1961
5139H	New	1952	5183	Am.	1960
5139H-1	New	1956	5190½	New	1958
5139H-2	New	1956	5190½	Am.	1960
5139H-3	New	1958	5221a-4	Rep.	1950
5139H-4	New	1960	5221a-5	New	1950
5139H-5	New	1961	§ 9	Am.	1961
5139I	New	1954	5221a-6	New	1950
5139J to 5139O	New	1956	§ 17	Am.	1961
5139J,			5221b-1	Am.	1950
§ 3	Am.	1960	5221b-1(b)	Am.	1956
§ 3a	New	1960	5221b-1(b)	Am.	1961
§ 3b	New	1960	5221b-1(c)	Am.	1958
5139P-5139X	New	1958	5221b-1(d)	Am.	1956
5139Y	New	1960	5221b-1(d)	Am.	1958
5139Z	New	1960	5221b-1(d)	Am.	1961
5139AA to 5139FF	New	1960	5221b-1(e)	New	1961
5139GG	New	1961	5221b-1a	Rep.	1956
5139HH	New	1961	5221b-2	Am.	1950
5139II	New	1961	5221b-2	Am.	1956
5139JJ	New	1961	(f)	New	1961
5139KK	New	1961	5221b-3	Am.	1950
5139LL	New	1961	5221b-3	Am.	1956
5139MM	New	1961	(a, b)	Am.	1958
5139NN	New	1961	(a-c)	Am.	1961
5142	Am.	1950	5221b-4	Am.	1950
5142a,			5221b-4	Am.	1956
§ 1	Am.	1950	(b)	Am.	1958
§§ 3-5	Am.	1950	(h)	Am.	1958
§ 6	Am.	1958	5221b-5	Am.	1950
5142a-1	New	1956	5221b-5	Am.	1956
5142a-2	New	1958	(c)	Am.	1958
5142b,			(c) (2A)	Am.	1961
§ 1	Am.	1950	(c) (6)	Am.	1961
§ 1	Am.	1956	(c) (7)	Am.	1954
§ 5	Am.	1950	(d)	Am.	1958

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5221b-6	Am.	1950	5282a	New	1956
(c)	Am.	1956	5320a	New	1952
(c) (1)	Am.	1958	5326	Am.	1952
5221b-7(c)	Am.	1958	5326h	New	1950
5221b-8 (c)	Am.	1956	5326i	New	1950
5221b-8(f)	Rep.	1958	5326j	New	1952
5221b-9			5330a, § 2	Am.	1952
(a)	Am.	1956	5337-1	New	1958
(e)	Am.	1956	5337-2	New	1960
(g)	Am.	1958	5366	Am.	1956
(h)	Am.	1956	5368b	Rep.	1950
5221b-9b	Am.	1956	5370	Am.	1950
5221b-11	Am.	1950	5371	Am.	1958
5221b-12			5382a	Rep.	1954
(a)	Am.	1956	5382b	New	1950
(b)	Am.	1956	§ 7	Am.	1952
(d)	Am.	1956	5382b-1	New	1954
(e)	Am.	1958	5382c	New	1952
(j)	Am.	1956	5382d	New	1952
5221b-13(a)	Am.	1956	§ 13a	New	1956
5221b-14			5382d-1	New	1956
(a)	Am.	1956	5382e	New	1954
(a)	Am.	1958	5399a-5399f	Rep.	1954
(a)	Am.	1961	5414a-1	New	1956
(e)	Am.	1956	5415c	New	1958
5221b-17	Am.	1950	5415d	New	1960
5221b-17	Am.	1956	5415e	New	1961
5221b-17	Am.	1958	5421b-1	New	1956
(g) (5)	Am.	1961	5421c,		
g(E.F.)	Am.	1961	§ 8	Am.	1954
(k)	Am.	1961	§ 8	Am.	1958
5221b-18	Rep.	1958	5421c-7	New	1956
5221b-22a	Am.	1950	§§ 1-3	Am.	1958
5221b-22an	New	1958	§§ 7, 8	New	1958
5221c,			5421c-8	New	1958
§ 1	Am.	1960	5421c-9	New	1961
§ 2	Am.	1960	5421h-2	New	1961
§ 3	Am.	1956	5421i	Am.	1952
§ 3	Am.	1960	5421j-1	New	1958
§ 5	Am.	1952	5421j-2	New	1961
§ 5	Am.	1958	5421k-2	New	1958
§ 12	Am.	1952	5421k-3	New	1961
§ 12	Am.	1958	5421m	New	1950
§ 12	Am.	1961	§ 2	Am.	1958
§ 17	Am.	1961	§§ 2(A) to 2(C)	New	1958
§ 18	Rep.	1961	§ 3	Am.	1952
5221d	New	1956	§ 3	Am.	1958
5221e	New	1958	§ 6	Am.	1958
5244a-3	New	1961	§ 9	Am.	1952
5248	Am.	1950	§ 9(a)	Am.	1958
5248c-1	New	1961	§ 10	Am.	1952
5248c-2	New	1961	§ 10	Am.	1958
5248d-1	New	1961	§ 10(A)	New	1956
5248g	New	1950	§ 11	Am.	1952
§ 1	Am.	1956	§ 11	Am.	1956
5248h, 5248i	New	1950	§ 12	Am.	1958
5254a,			§ 13	Am.	1958
§ 1	Am.	1958	§ 14	Am.	1952
§ 1	Am.	1960	§ 14	Am.	1954
§ 2	Am.	1958	§ 15	Am.	1956

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5421m			5476	Am.	1954
§ 16	Am.	1952	5476	Am.	1958
§ 16	Am.	1956	5476a	New	1954
§ 16(A)	New	1956	5476a	Am.	1958
§ 17	Am.	1952	5476b	New	1954
§ 17	Am.	1956	5476b	Am.	1958
§ 17	Am.	1958	5476c	New	1958
§ 17	Am.	1961	5476d	New	1958
§ 18	Am.	1952	5499a	New	1954
§ 18	Am.	1956	5499a-51	New	1960
§ 19	Am.	1956	5500	Am.	1950
§ 19	Am.	1958	5506a	Am.	1954
§ 19(A)	New	1956	5506c,		
§ 19(A)	Am.	1958	§ 2	Am.	1956
§ 19(A)	Am.	1961	§ 7	Am.	1956
§ 21	Am.	1958	5517	Am.	1954
§ 21	Am.	1958	5526b	New	1960
§ 21	Am.	1961	5541	Am.	1952
§ 21(A)	New	1958	5547-1		
§ 23	Am.	1952	to		
§ 24	Am.	1956	5547-108	New	1958
§ 25	Am.	1956	5547-4	Am.	1961
§ 30	New	1952	5547-27	Am.	1961
§ 31	New	1952	5547-28	Am.	1961
§ 32	New	1956	5547-30	Am.	1961
5421n	New	1954	5547-83	Am.	1960
5421o	New	1956	5547-92	Am.	1961
5429	Am.	1961	5550-5554	Rep.	1958
5429a	Rep.	1961	5557-5561	Rep.	1958
5429b	New	1950	5561a, §§ 1-5	Rep.	1958
5429c	New	1950	5561b	New	1950
5429d	New	1952	5561b	Am.	1952
5429e	New	1954	5561b	Rep.	1958
5429e	Am.	1961	5561b-1	New	1956
5429f	New	1961	5561b-1	Rep.	1958
5433a	New	1954	5561c	New	1954
5434	Am.	1954	§ 18	Am.	1958
5435	Am.	1961	§ 18	Am.	1960
5438d	New	1956	5577a	New	1954
5440	Rep.	1961	5670-5674	Rep.	1952
5441b	New	1960	5692	Am.	1954
5452	Am.	1952	5695	Am.	1961
5452	Am.	1961	5697	Am.	1961
5453	Am.	1961	5728	Am.	1961
5454	Am.	1961	5766	Am.	1958
5455	Am.	1961	5769b	New	1950
5456	Am.	1961	5769b	Rep.	1954
5457	Rep.	1961	5769b-1	New	1954
5461	Rep.	1961	5769c	New	1950
5462	Rep.	1961	5790a	New	1950
5463	Am.	1961	5798a-2,		
5465	Rep.	1961	§ 1	Am.	1950
5467	Am.	1961	§ 2	Am.	1952
5468	Am.	1961	§ 2	Am.	1960
5469	Am.	1961	5845	Am.	1950
5472a	Am.	1960	5845	Am.	1958
5472d	New	1961	5845a	New	1958
5473	Am.	1958	5890a	Rep.	1954

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5890b,			6066d	New	1960
§ 1	Am.	1958	§ 3D	Am.	1961
§ 1	Am.	1960	§ 5	Am.	1961
§ 5	New	1950	§ 6	Am.	1961
5891	Rep.	1954	6067a	New	1950
5891c,			6069b	New	1960
§§ 1-4	Am.	1952	6070e	New	1950
§ 5(a)	New	1952	6070f	New	1956
§ 5(b)	New	1952	6070g	New	1961
§ 7	Am.	1952	6074-6077a	Rep.	1950
5892	Am.	1954	6077h-1	New	1952
5893-5900	Rep.	1954	6077h-2	New	1954
5916	Rep.	1954	6077h-3	New	1960
5921a	Am.	1950	6077i	Rep.	1950
5921b	New	1954	6077j-1	New	1961
5922a	New	1954	6077o	New	1950
5923a	New	1954	6077p	New	1950
5923-1	New	1953	6077q	New	1953
5923-101	New	1958	6077r	New	1953
5924(a)	New	1961	6077s	New	1961
5932, § 9	Am.	1961	6079b	Am.	1956
6003b	New	1960	6079b	Am.	1958
6008,			6079c	New	1950
§ 2(k)	Am.	1950	6079c	Am.	1952
§ 3	Am.	1950	§ 3	Am.	1958
§ 7	Am.	1950	§ 12a	New	1958
§ 21	Rep.	1950	6079c-1	New	1956
6008-1, § 5	Am.	1950	6079d	New	1954
6008a,			6079d-1	New	1961
§ 3(h)	Am.	1950	6079e	New	1958
§ 3(i)	Am.	1950	6079e	Am.	1960
6008a-1	New	1950	6079f	New	1960
6008b	New	1950	§ 2	Am.	1961
§ 3	Rep.	1956	§ 6	Am.	1961
6020a	Am.	1956	§ 11	Am.	1961
6029a	New	1956	§ 12	Am.	1961
6050,			§ 13	Am.	1961
§ 4	New	1956	§ 15	Am.	1961
§ 4a	New	1956	§ 16	Am.	1961
6052a	New	1952	§ 17	Am.	1961
6052a	Rep.	1960	6079f-1	New	1961
6053,			6081g,		
§§ 3-19	Rep.	1960	§§ 1, 2	Am.	1961
§ 6	Am.	1950	§ 4	Am.	1961
§ 6(c)	New	1952	§ 4a	New	1961
§ 7	Am.	1950	6081i	New	1952
§ 7(c)	New	1952	6110-6132	Rep.	1956
§ 8	Am.	1950	6132a	New	1956
§ 10	Am.	1950	6132b	New	1961
§ 10(c)	New	1952	6138A	New	1961
§ 11	Am.	1950	6142b	New	1956
§ 11	Am.	1952	6144	New	1954
§ 12	Am.	1952	6144e	New	1960
§ 18	Am.	1952	6145	Rep.	1952
6065	Am.	1960	6145	New	1953
6066	Am.	1960	6145-2,		
6066	Am.	1961	§ 6	Am.	1952
6066b	New	1950	§ 13	Am.	1959
6066c	New	1954	6145-3	New	1958

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6166a—1	New	1958	6243e,		
6166d	Am.	1952	§ 3A	New	1958
6166g note	New	1960	§ 6	Am.	1950
6166m	Am.	1952	§ 6	Am.	1954
6166q	Rep.	1952	§ 6	Am.	1958
6166y	Am.	1956	§§ 6A, 6B	New	1958
616Cz1	Am.	1954	§ 7	Am.	1954
6184l	Am.	1950	§ 7	Am.	1958
6196	Rep.	1954	§ 7A	New	1954
6203c, § 9	Am.	1950	§ 7A	Am.	1958
6203c—1	New	1956	§§ 7B, 7C	New	1958
6203d	Am.	1956	§ 9	Am.	1958
6205	Am.	1952	§ 10	Am.	1958
6221	Am.	1950	§ 10a	Am.	1956
6221	Am.	1954	§ 10A	Am.	1958
6221	Am.	1958	§ 10B	New	1958
6227a	New	1950	§ 10C	New	1960
6228a	Am.	1954	§ 12	Am.	1956
6228a	Am.	1958	§ 12	Am.	1958
§ 1	Am.	1950	§ 12A	New	1958
§ 1(P.R.)	Am.	1952	§ 21	Am.	1956
§ 3	Am.	1950	§ 21	Am.	1958
§ 3(E)	Am.	1952	§ 23	Am.	1956
§ 4(A)	Am.	1952	§§ 23A, 23B	New	1958
§ 4(E)	Am.	1961	§ 25A	New	1961
§ 5	Am.	1950	§ 27A	New	1958
§ 5(A)	Am.	1956	6243e—1	Rep.	1950
§ 5(B)	Am.	1952	6243f,		
§ 5(D1)	Am.	1961	§ 1	Am.	1952
§ 5(G)	Am.	1956	§ 1	Am.	1960
§ 5(I)	Am.	1952	§ 2	Am.	1960
§ 5(J)	New	1958	§ 3	Rep.	1960
§ 6	Am.	1950	§ 4	Am.	1960
§ 7(F)	New	1960	§ 5	Am.	1960
§ 9a	New	1952	§ 7	Am.	1952
6228a—1	New	1954	§ 7	Am.	1958
6228a—2	New	1956	§ 7	Am.	1960
6228a—2	Am.	1960	§ 8	Am.	1952
6228a—3	New	1958	§ 8	Am.	1958
6228a—4	New	1961	§ 8	Am.	1960
6228b	New	1950	§ 9	Rep.	1960
§ 4	Am.	1952	§ 10	Am.	1952
§ 8	Am.	1956	§ 10	Am.	1960
§ 8a	New	1956	§ 11	Am.	1952
6228c	New	1950	§ 11	Am.	1960
6228c—1	New	1952	§ 12	Rep.	1960
6228d	New	1950	§ 13	Am.	1960
6228d	Am.	1952	§ 14	Am.	1960
6228e	New	1960	§ 15	Am.	1960
6243a,			§ 17	Am.	1956
§ 1	Am.	1952	§ 17	Am.	1960
§ 6	Am.	1954	§ 19	Am.	1960
§ 7	Am.	1954	§ 23	Am.	1960
§ 9	Am.	1954	§ 24	New	1960
§ 10	Am.	1954	6243g	Am.	1958
§ 11	Am.	1954	§ 3(c)	Rep.	1960
6243b,			§ 3A	Am.	1952
§ 18	New	1960	§ 3A(b)	Am.	1954
§ 18	Am.	1961	§ 3A(d)	New	1954
			§ 4(f)	New	1960

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6243g.			6573a	Am.	1958
§ 5(b)	Am.	1960	§ 19	Am.	1960
§ 10	Am.	1960	6602(4)	Am.	1958
§ 12	Am.	1952	6626	Am.	1952
§ 12	Am.	1954	6626a	New	1958
§ 12	Am.	1960	6626a	Am.	1961
§§ 12-10	Am.	1961	6636	Am.	1958
§ 13	Am.	1954	6640	Am.	1960
§ 13	Am.	1960	6644	Am.	1954
§ 13A	New	1952	6673a	Am.	1954
§ 16	Am.	1952	6673e-1	New	1958
§ 16	Am.	1954	6673e-2	New	1958
§ 16	Am.	1960	6674m	Am.	1960
§ 21	Am.	1961	6674n	Am.	1956
6243g-1	Am.	1958	6674n-1	New	1952
§ 9	Am.	1961	6674n-2	New	1960
§ [9a]	New	1961	6674q-5	Rep.	1952
6243h	Am.	1950	6674s, § 7	Am.	1960
§ II(12)	Am.	1958	6674t	New	1952
§ II(16)	Am.	1960	6674t-1	New	1958
§ II(25)	Am.	1960	6674u	New	1954
§ II(26)	Am.	1960	6674v	New	1954
§ IV	Am.	1958	6674w to 6674w-5	New	1958
§ IV(1)	Am.	1960	6675a-2	Am.	1954
§ IV(2a)	Am.	1960	6675a-2	Am.	1958
§ V(1a)	Am.	1960	6675a-2	Am.	1961
§ V(6)	Am.	1960	6675a-3	Am.	1958
§ V(7)	Am.	1960	6675a-3	Am.	1961
§ VII	Am.	1960	6675a-3aa	Am.	1958
§ XIII	New	1960	6675a-5	Am.	1952
6243h-1	New	1950	6675a-5	Am.	1958
6243h-2	New	1952	6675a-5a	New	1958
6243i	New	1950	6675a-5b	New	1960
6243j	Rep.	1952	6675a-6	Am.	1958
6247j	New	1952	6675a-6a	Am.	1958
6252-2	New	1950	6675a-6b	New	1960
6252-3	New	1950	6675a-7	Am.	1958
6252-4	New	1952	6675a-8	Am.	1958
6252-5 to 6252-6	New	1952	6675a-8a	Am.	1958
6252-6.			6675a-8a	Am.	1958
§ 4(c)	Am.	1954	6675a-8a	Am.	1960
§ 4(d)	Am.	1961	6675a-8b	Am.	1950
§ 5(g)	Am.	1954	6675a-8b	Rep.	1950
6252-6a	New	1960	6675a-8c	Am.	1958
6252-7	New	1954	6675a-10	Am.	1958
6252-8	New	1954	6675a-11	Am.	1952
6252-9	New	1958	6675a-12a	Am.	1952
6252-10	New	1960	6675a-13	Am.	1952
6252-11	New	1961	6686(a)	Am.	1961
6252-12	New	1961	6687b.		
6252-13	New	1961	§ 3(4a)	New	1952
6258	Am.	1954	§ 4	Am.	1958
6268	Am.	1950	§ 4a	New	1958
6478a	New	1960	§ 5	Am.	1954
6550a	Rep.	1954	§ 5a	New	1954
6550(a)	New	1954	§ 15	Am.	1952
6550b	Rep.	1954	§ 15	Am.	1958
6560-6573	Rep.	1954	§ 15	Am.	1960
6573a	Am.	1950	§ 15	Am.	1961

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6687b.			6701g,		
§ 15a	New	1954	§ 3	Am.	1956
§ 19	Am.	1952	§ 4	Am.	1954
§ 19	Am.	1956	§ 4	Am.	1956
§ 19	Am.	1961	6701h	New	1952
§ 21	Am.	1960	6701i	New	1958
§ 22	Am.	1960	6701j	New	1958
6687b note	Am.	1960	6701½	New	1958
6701a,			6703a	New	1956
§ 1	Am.	1954	6704	Am.	1954
§ 3	Am.	1950	6711	Am.	1954
6701c	Rep.	1956	6716-1,		
6701c-1	New	1954	§ 5	Am.	1958
§ 2	Am.	1956	§ 6	Am.	1958
§ 4	Am.	1956	§ 15	Am.	1958
§ 5	Am.	1956	6745	Am.	1952
6701c-2	New	1954	6762	Am.	1958
6701d,			6795b, § 1	Am.	1960
§ 2	Am.	1954	6795b-1,		
§ 44	Am.	1954	§ 1	Am.	1956
§ 69	Am.	1952	§ 2	Am.	1950
§ 93(a)	Am.	1960	§ 5a	New	1950
§ 104	Am.	1954	§ 7	Am.	1950
§ 104(a)	Am.	1956	§ 7(a)	New	1950
§ 104(d)	New	1958	§ 7(b)	New	1950
§ 105	Am.	1954	6795c	New	1956
§ 106	Am.	1950	6812b	New	1952
§ 106(a)	Am.	1956	6812c	New	1954
§ 106(d)	New	1956	6813 note	New	1960
§ 108A	New	1956	6813b	Am.	1961
§ 108B	New	1956	6819a	Rep.	1952
§ 108B(c)	Am.	1961	6819a-3	Am.	1952
§ 112(b)	Am.	1961	6819a-4	Rep.	1950
§ 121	Am.	1960	6819a-5	New	1950
§ 125	Am.	1960	6819a-6	New	1950
§ 126	Am.	1956	6819a-6	Rep.	1952
§ 127	Am.	1956	6819a-6	Rep.	1958
§ 131	Am.	1954	6819a-7		
§ 131	Am.	1960	to		
§ 132(3)	Am.	1961	6819a-9	New	1952
§ 136	Am.	1952	6819a-9	Rep.	1958
§ 139	New	1952	6819a-9(a)	Rep.	1953
§ 139a	Am.	1960	6819a-10	New	1956
§ 140	Am.	1952	6819a-10	Rep.	1958
§ 140	Am.	1954	6819a-11	New	1956
§ 141	Am.	1952	6819a-12		
§ 141	Am.	1954	to		
§ 142	Am.	1952	6819a-18	New	1958
§ 142	Am.	1954	6819a-12a	New	1960
§ 148	Am.	1954	6819a-19		
§§ 158-165	New	1954	to		
6701d-1	New	1954	6819a-25	New	1960
6701d-2	New	1954	6819a-19a	New	1961
6701d-3	New	1961	6819a-19b	New	1961
6701e	New	1952	6819a-25a	New	1961
6701f	New	1952	6819a-26	New	1961
6701g	New	1952	6819a-27	New	1961
§ 1	Am.	1954	6819a-28	New	1961
§ 1	Am.	1956	6819a-29	New	1961
§ 3	Am.	1954	6819a-30	New	1961

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6820	Am.	1950	7047a-10	Am.	1958
6820	Am.	1956	(1)	Am.	1960
6822a	New	1960	7047a-10a	New	1954
6823	Am.	1950	7047a-10a	Rep.	1958
6823	Am.	1954	7047a-10b	New	1954
6823a	New	1960	7047a-10b	Rep.	1958
6824 note	New	1950	7047b,		
6830e	New	1950	§ 1	Am.	1952
6830f	New	1952	§ 1(1)	Am.	1956
6830g	New	1953	§ 1(3)	Am.	1954
6851a	New	1952	§ 1(3)	Am.	1956
6877-1	Am.	1961	§ 1½	New	1950
6877-2	New	1954	§ 2(12)	Am.	1950
6880b	New	1950	§ 3-a	Rep.	1952
6880c	New	1952	7047c-1,		
6889c	Rep.	1961	§ 1(a)	Am.	1960
6889d	New	1954	§ 2	Am.	1950
6889d	Am.	1961	§ 2	Am.	1956
6889e	New	1956	§ 2(e)	Am.	1960
6889-3	New	1952	§ 2a	New	1950
6889-3A	New	1956	§ 2½	New	1956
6889-4	New	1952	§ 3	Am.	1950
§ 5	Am.	1954	§ 3	Am.	1956
6889-5	New	1952	§ 3	Am.	1960
6899d	Superseded	1956	§ 3a	Am.	1960
6899d-1	New	1956	§ 30a	New	1950
6930	Am.	1954	7047c-2	Rep.	1960
6935	Am.	1956	7047d, § 3	Am.	1954
6937	Am.	1956	7047f	Rep.	1960
6954	Am.	1950	7047h-7047j	Rep.	1960
6954	Am.	1954	7047k,		
6954	Am.	1956	§ 1	Am.	1952
6954	Am.	1958	§ 3(c)	Am.	1952
6954	Am.	1960	§ 5a	Am.	1952
6965	Am.	1954	§ 6	Am.	1952
6965	Am.	1961	7047k-1	New	1950
6967	Am.	1954	§ 2	Am.	1952
6967	Am.	1961	7047l,		
7005-1	New	1958	§ 1	Am.	1952
7009	Am.	1956	§ 1½	New	1950
7009a	New	1960	7047l-1	New	1956
7047			7047m,		
(24)	Am.	1952	§ 1	Am.	1952
(40b)	Am.	1952	§ 1½	New	1950
(41a)	New	1950	7047n	New	1950
(41a)	Am.	1952	7047o	New	1950
(40)	Am.	1952	7048a	New	1950
(46f)	Am.	1950	§ 10(a) (4)	Am.	1952
7047a-2	Am.	1952	7048b	New	1952
7047a-3	Am.	1950	7048b	Am.	1956
7047a-3	Am.	1952	7057	Rep.	1960
7047a-4	Am.	1952	7057a,		
7047a-5	Rep.	1960	§ 2(1)	Am.	1952
7047a-6			§ 2A	New	1950
to			7057h,		
7047a-15	Am.	1952	§ 2a	Am.	1961
7047a-15a	New	1952	7057e	New	1950
7047a-16	Am.	1952	7057e	Rep.	1960
7047a-19	Am.	1954	7057f	New	1952
			7058	Rep.	1960



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7059	Rep.	1960	7066b	Am.	1952
7060	Am.	1952	7066b-1	Rep.	1960
7060½	New	1950	7066c	New	1950
7060a	Am.	1952	7068	Rep.	1960
§ 1	Am.	1956	7069	Rep.	1960
7060b	New	1950	7070	Am.	1952
7061	Rep.	1960	7070a	New	1950
7062	Rep.	1960	7071	Rep.	1960
7063	Am.	1954	7072	Rep.	1954
7064	Am.	1952	7076	Rep.	1960
7064½	New	1950	7078	Rep.	1960
7064a	New	1950	7080	Am.	1952
7064a	Am.	1952	7081	Am.	1952
7064a-1	New	1950	7082	Am.	1952
7065	Rep.	1960	7083a, § 2	Am.	1958
7065b-1	Am.	1952	(1)	Am.	1956
(a)	Am.	1958	(1)	Am.	1960
(c)	Am.	1958	(2)	Am.	1956
(g)	Am.	1958	(2)	Am.	1960
(n)	Am.	1958	§ 2(1, 4)	Am.	1961
(q)	New	1958	§ 2(3A)	New	1961
7065b-2	Am.	1952	§ 2(5)	Am.	1961
(a)	Am.	1956	§ 2(7)	New	1961
(b)	Am.	1954	(3)	Am.	1960
(b)	Am.	1958	(4)	Am.	1956
7065b-3	Am.	1952	(4)	Am.	1960
7065b-4	Rep.	1960	(4-a)	Am.	1950
7065b-5	Am.	1958	(4-b)	New	1950
(a)	Am.	1956	(4b)	Am.	1960
7065b-6	Rep.	1960	(4-c)	New	1956
7065b-7(a)	Am.	1958	(4c)	Am.	1960
7065b-8	Am.	1956	(6)	Am.	1960
7065b-9			7083a.2	New	1961
to			7084	Am.	1950
7065b-12	Rep.	1960	7084	Am.	1952
7065b-13	Am.	1952	7084	Am.	1956
7065b-13	Am.	1954	(2)	Am.	1958
7065b-14	Am.	1952	7084b	New	1960
(a)	Am.	1956	7084½	New	1950
(g)	Am.	1956	7084½	Rep.	1960
7065b-14a	New	1956	7085	Am.	1950
7065b-14b	New	1956	7085	Rep.	1960
7065b-14c			7086	Am.	1950
to			(1)	Am.	1956
7065b-17	Rep.	1960	7087	Am.	1950
7065b-18	Am.	1952	7087	Rep.	1960
7065b-19			7089	Am.	1950
to			(1)	Am.	1956
7065b-21	Rep.	1960	7089a-7089h	Rep.	1950
7065b-22	Am.	1952	7090-7092	Am.	1950
7065b-23	Rep.	1960	7090	Rep.	1960
7065b-24	Rep.	1960	7091	Am.	1956
7065b-25	Am.	1952	7092	Am.	1956
7065b-25	Am.	1960	7092a	New	1950
7065b-26	Am.	1952	7092a	Rep.	1960
7065b-27	Am.	1952	7093	Am.	1950
7065b-28	Rep.	1960	7093	Rep.	1960
7065b-29	Rep.	1960	7094	Am.	1950
7066	Rep.	1960	7094	Am.	1952
7066b(aa)	New	1956	7094	Am.	1956

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
7094	Am.	1958	7466g	New	1950
7094	Am.	1960	7466h	New	1952
7095	Am.	1950	7466i	New	1954
7095	Rep.	1960	§ 1 art. VII(c)	Am.	1961
7096	Am.	1952	§ 2	Am.	1961
7097	Am.	1950	7467b	New	1950
7097	Rep.	1960	7467c	New	1954
7105a	New	1956	7470	Am.	1954
7117-7121	Rep.	1960	7470	Am.	1958
7122	Am.	1956	7470a	Rep.	1954
7122	Am.	1960	7470b	New	1954
7122-a	New	1958	7472d-1	New	1958
7123-7139	Rep.	1960	7472e	New	1956
7141	Rep.	1960	7477	Am.	1954
7143	Rep.	1960	7477a	New	1954
7144	Rep.	1960	7478-7487	Rep.	1954
7144a	Rep.	1960	7488	Rep.	1954
7150,			7490	Rep.	1954
7	Am.	1961	7491	R p.	1954
20	New	1955	7492	Am.	1954
21	New	1960	7492a	New	1954
7150b	Am.	1961	7493	Am.	1954
7151	Am.	1952	7500a	Am.	1954
7212	Am.	1950	7500a	Am.	1960
7228-7241	Rep.	1952	7512	Rep.	1954
7258a	Am.	1954	7515	Am.	1954
7260,			7515a	New	1954
§ 8	New	1961	7519a	New	1954
7264b	Rep.	1952	7519a	Am.	1958
7298	Am.	1952	7519b	New	1954
7298	Am.	1954	7519b	Am.	1958
7298a	New	1958	7531	Am.	1954
7321a	Am.	1952	7531a	New	1954
7331	Am.	1954	7537a	Am.	1961
7332	Am.	1952	7537b	New	1957
7332	Am.	1961	7550a	New	1957
7333	Am.	1952	7564	Rep.	1954
7335b	New	1952	7569	Rep.	1954
7336f	Am.	1952	7577	Rep.	1961
§ 2	Am.	1956	7583	Am.	1950
7345b	New	1952	7589b	New	1958
§ 8	Am.	1954	7612	Am.	1956
7345b-2	New	1956	7612a	Am.	1956
7345e	New	1950	7612b	New	1956
7425b-25,			7621a	New	1954
par. L	Am.	1961	7621a	Rep.	1961
7425c	New	1952	7621b	New	1961
7425d	New	1956	7621c	New	1961
7428-1	New	1952	7621d	New	1961
7428-2	New	1952	7622b-1	New	1958
7436a	New	1958	7641-b	Am.	1961
7448-7465	Rep.	1954	7652b	New	1956
7465a	New	1954	7656a	New	1960
§ 8	Am.	1960	7661	Am.	1950
§ 13	Am.	1960	7718	Am.	1960
§ 14	Am.	1960	7718c	New	1954
§ 16	Am.	1958	7718c	Rep.	1960
§ 16(b)	Am.	1960	7723a	New	1961
7466f	New	1950	7807n	New	1957
			7880-1 notes	New	1958

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
7880-1 notes	New	1960	7941c	New	1952
7880-1a	New	1961	7987	Am.	1954
7880-3c	New	1950	7987	Am.	1958
(A5)	Am.	1956	7987-1	New	1960
(A6e)	New	1956	8097 notes	New	1960
(A9)	Am.	1956	8120	Am.	1956
(B3)	Am.	1956	8120	Am.	1958
(B4)	Am.	1956	8120	Am.	1961
(B10)	New	1956	8120a	New	1950
(B11)	New	1961	8152a	New	1952
(D4a)	Am.	1956	8161b, § 7	Am.	1961
(D5)	New	1956	8161d	New	1950
7880-16	Am.	1958	8176b	New	1958
7880-19	Am.	1958	8176b-1	New	1958
7880-20a	New	1956	8176b-2	New	1960
7880-21	Am.	1961	8176c	New	1958
7880-23	Am.	1958	8176d	New	1960
7880-38a, § 1	Am.	1956	8217a	New	1954
7880-43	Am.	1958	8224	Am.	1958
7880-74a	New	1952	8225	Am.	1952
7880-75c	New	1950	8227a	New	1956
7880-76	Am.	1958	8235a,		
7880-76c,			§ 3	Am.	1956
§ 01	New	1961	§ 3	Am.	1958
§ 1	Am.	1952	§ 4	Am.	1956
§ 1	Am.	1961	§ 9	Am.	1956
§ 2	Am.	1952	8244a	New	1956
§ 2	Am.	1961	8247b, § 1(b, c)	Am.	1958
§ 5	Am.	1961	§ 7a	New	1952
§ 6	Am.	1961	§ 18a	New	1952
§ 7	Am.	1952	§ 18b	New	1952
§ 8	Am.	1952	§ 18c	New	1952
§ 11	Am.	1952	8247b-1	New	1961
§ 17a	New	1952	8247e	New	1950
7880-90a	Am.	1952	8247e	Am.	1958
7880-101	Am.	1961	§ 2	Am.	1954
7880-107	Am.	1961	§ 3	Am.	1954
7880-111(c)	New	1958	8247f	New	1956
7880-117	Am.	1958	8263a,		
7880-123a	Am.	1961	§ 3a	New	1952
7880-139	Am.	1961	§ 5	Am.	1961
7880-147c1	Am.	1958	8263e,		
7880-147c6a	New	1958	§ 18-a	New	1950
7880-147c8	New	1952	§ 78	Am.	1960
7880-147c9	New	1956	§ 84	Am.	1960
7880-147c10	New	1958	8263f-1	New	1952
7880-147z1	New	1952	8263h,		
7880-147z1	Rep.	1958	§ 3	Am.	1961
7880-147z2	New	1956	§§ 51, 52	New	1950
7880-147z3	New	1958	8263i	Am.	1954
7880-147z4	New	1958	8263j	New	1950
7880-147z5	New	1958	8263k	New	1950
7880-147z6	New	1958	8274	Am.	1952
7893a	New	1952	8274	Am.	1954
7897	Am.	1961	8274	Am.	1956
7922	Am.	1956	8274	Am.	1960
7930-4	Am.	1958	8274	Am.	1961
7930-5	Am.	1956	8280-2 to 8280-4	New	1950
7941b	New	1952	8280-3.5	New	1960
			8280-5	New	1954

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-6	New	1954	8280-160, § 13	Am.	1958
8280-7	New	1958	§ 3	Am.	1960
8280-8	New	1958	§ 6(d)	Am.	1958
8280-9	New	1958	§ 6(f)	Am.	1958
§ 4	Am.	1960	§ 15(a)	Am.	1958
§ 10-B	Am.	1961	§ 15(a)	Am.	1960
§ 10-D	Am.	1960	§ 15(e)	Am.	1958
§ 10-D	Am.	1961	§ 24-A	New	1960
§ 14	Am.	1961	§ 24-A	Am.	1960
§ 15	Am.	1961	8280-160,		
8280-10	New	1961	§ 7	Am.	1961
§ 1	Am.	1961	§ 13	Am.	1958
8280-11	New	1961	8280-161,		
8280-107, § 10	Am.	1960	§ 4	Rep. in part	1960
8280-119,			§ 4-A	New	1960
§ 1(h)	Am.	1961	8280-162,		
§ 2	Am.	1961	§ 1	Am.	1958
§ 2-a	Am.	1961	§ 5(l)	New	1960
§ 3	Am.	1961	§ 7	Am.	1961
§ 3(e)	Am.	1958	§ 12(g)	Am.	1961
§ 4	Rep.	1961	§ 22	Rep.	1960
§ 4-a	Am.	1961	§ 22	Am.	1961
§ 5	Rep.	1961	8280-167,		
§ 7	Rep.	1961	§ 2	Am.	1960
§ 9	Am.	1961	§ 3-A	New	1958
§ 10	New	1961	§ 12(a)	New	1958
§ 10	Rep.	1961	8280-172, § 4(a)	New	1958
§§ 11, 12	Am.	1961	8280-173,		
§§ 13, 14	Am.	1961	§ 1	Am.	1961
§ 14-a	Am.	1961	§ 2	Am.	1961
§ 15-a	Am.	1961	§ 6	Am.	1960
§ 15-b	Am.	1961	§ 6	Am.	1961
§ 16	Am.	1961	§ 8	Am.	1961
§ 16-a	Rep.	1961	8280-174, § 3	Am.	1960
§ 17-a	New	1960	8280-177,		
§ 18	Am.	1961	§ 2	Am.	1961
§§ 21-a, 22	Am.	1961	§ 3(a)	Am.	1961
§ 25	Am.	1961	§ 3(c)	Am.	1961
8280-124, § 10(a)	New	1958	§ 3(d)	Am.	1961
8280-126, § 8(e)	Am.	1958	8280-187,		
8280-128	Rep.	1960	§ 1	Am.	1958
8280-131	Am.	1960	§ 1	Am.	1960
8280-135, § 12	Am.	1958	§ 1	Am.	1961
8280-137,			8280-188,		
§ 28	New	1961	§ 2a-1	New	1958
8280-147,			§ 5(f)	Am.	1960
§ 7(a)	New	1960	§ 8(d)	Am.	1960
§ 7-a	New	1960	§ 8-A	New	1958
§ 7-b	New	1960	8280-191		
§ 21(b)	New	1960	to		
8280-147a	New	1961	8280-209	New	1958
8280-154	Am.	1958	8280-196, § 2	Am.	1961
§ 5(a)	Am.	1961	8280-198, § 5(L)	New	1961
§ 13(o)	Am.	1961	8280-198a	New	1961
§ 13(p)	Am.	1961	8280-200,		
§ 15(l)	Am.	1961	§ 2	Am.	1961
8280-157,			§ 3	Am.	1961
§ 2	Am.	1960	§ 6	Am.	1961
§ 3	Am.	1958	§ 9	Am.	1961

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-206,		
§ 2	Am.	1960
§ 2	Am.	1961
§ 3(b)	Am.	1961
§ 5(j)	Am.	1961
8280-207a	New	1961
8280-207b	New	1961
8280-210		
to		
8280-215	New	1958
8280-211,		
§ 2	Am.	1961
§ 3	Am.	1961
§ 6	Am.	1961
§ 9	Am.	1961
8280-212,		
§ 15(a)	New	1961
8280-213,		
§ 15(a)	New	1961
8280-216	New	1960
8280-217	New	1960
§ 6	Am.	1960
8280-218		
to		
8280-226	New	1960
8280-227	New	1960
§ 6	Rep. in part	1960
§ 6-A	New	1960
8280-228		
to		
8280-244	New	1960
8280-228,		
§ 16a	New	1961
§ 19	Am.	1961
8280-238,		
§ 2	Am.	1961
§ 3	Am.	1961
8280-243,		
§ 17	Am.	1961
§ 23(a)	Am.	1961
§ 27	Am.	1961
8280-245		
to		
8280-253	New	1961
8280-253	Rep.	1961
8280-254		
to		
8280-269	New	1961
8293	Am.	1950
8306,		
§ 6	Am.	1954
§ 7	Am.	1954
§ 7	Am.	1958
§ 7a	Am.	1954
§ 7b	Am.	1954
§ 7c	Am.	1958
§ 7d	Am.	1958
§ 7d	Am.	1960
§ 8	Am.	1958
§ 9	Am.	1961

Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8308,		
§§ 10-12	Am.	1958
§ 12c-2	Am.	1958
§ 12f	Am.	1954
§ 15	Am.	1960
§ 15a	Am.	1952
§ 15a	Am.	1956
§ 20	Am.	1953
§ 25	Am.	1960
§ 26(d)	Am.	1958
§ 28	New	1958
8306a	Am.	1952
8306a	Am.	1956
8307,		
§ 4	Am.	1954
§ 5	New	1958
8308,		
§ 1A	New	1954
§ 16	Am.	1954
§ 18	Rep.	1954
8309,		
§ 1	Am.	1960
§ 1b	New	1958
§ 2	Am.	1954
8309a	Am.	1954
8309b,		
§ 2	Am.	1950
§ 2	Am.	1958
§ 3	Am.	1958
§ 4	Am.	1950
§ 7	Am.	1957
§ 7	Am.	1954
§ 7	Am.	1960
§ 10	Am.	1954
§ 13	Am.	1954
§ 14	Am.	1954
§ 14	Am.	1958
§ 15	Am.	1958
§ 18	Am.	1954
8309c	New	1950
§ 3	Am.	1956
§ 3	Am.	1958
§ 6	Am.	1954
§ 9	Am.	1954
§ 10	Am.	1953
§ 15	Am.	1954
§ 17	Am.	1956
8309d	New	1952
§ 7	Am.	1960
8309e	New	1954
8309f	New	1958
8310-8324	Rep.	1954

BUSINESS CORPORATION ACT

Bus. Corp.Art.	Effect	Vernon's Texas St.Supp.
1.01 to 11.01	New	1958
2.18, § A	Am.	1958

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<b>Bus. Corp. Act Art.</b>	<b>Effect</b>	<b>Vernon's Texas St. Supp.</b>
2.19,		
§ A	Am.	1958
§§ E, F	New	1958
2.22,		
§ A	Am.	1958
§ C	Am.	1958
2.29,		
(C)	Am.	1961
D	Am.	1958
D(1)-D(3)	Am.	1961
2.30(B)	New	1961
3.02, § A	Am.	1958
3.05, § A	Am.	1958
4.07,		
§ B	Am.	1958
§ C(2)	Am.	1958
4.14	New	1961
5.09	Am.	1958
5.10	Am.	1958
5.11, § A	Am.	1958
7.05, subs. A(1) (e)	Am.	1961
8.01, § B	Am.	1958
8.03(A)	Am.	1961
8.14, § A	Am.	1958
9.14,		
§ A	Am.	1960
§ E	Am.	1960
§ F	New	1960
10.01	Am.	1961
§ A(13)	Am.	1958

<b>Elec. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St. Supp.</b>
7.16, § 3	New	1961
7.17	Am.	1961
8.13	Am.	1958
12.02	Am.	1958
13.01a	New	1960
13.03	Am.	1960
13.04A	New	1958
13.08	Am.	1958
13.08	Am.	1960
13.08a	New	1958
13.09	Am.	1958
13.12	Am.	1960
13.14	Am.	1960
13.15	Am.	1958
(b)	Am.	1961
13.17	Am.	1960
13.24	Am.	1960
13.27	Am.	1960
13.34	Am.	1958
13.34	Am.	1960
13.35	Am.	1960
13.36	Am.	1960
13.43a	New	1958
13.45	Am.	1960
13.46	Am.	1960
13.47	Am.	1960
13.47a	New	1961
13.58	Am.	1960
14.08	Am.	1958

**ELECTION CODE**

<b>Elec. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St. Supp.</b>
1.01 to 14.12	New	1952
2.01	Am.	1961
4.10	Am.	1961
4.11	New	1961
5.03	Am.	1957
5.05,		
Subds. 1-5	Am.	1960
Subd. 6	Am.	1958
Subds. 6-8	Am.	1960
Subds. 15-17	New	1960
5.06	Am.	1960
5.09	Am.	1960
5.11	Am.	1958
5.14	Am.	1960
5.17	Am.	1961
6.01	Am.	1956
6.01	Am.	1960
6.05	Am.	1958
6.06	Am.	1958
6.07	Am.	1956
7.14	New	1956
§ 7a	New	1958
§ 7b	New	1960
§ 15	Am.	1958
§ 16a	New	1960
§ 20	Am.	1961

**INSURANCE CODE**

<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St. Supp.</b>
1.01 to 21.44	New	1952
1.02	Am.	1958
1.02	Am.	1958
1.03	Am.	1958
1.03	Am.	1958
1.04	Am.	1958
1.04	Am.	1958
1.04(e)	Rep.	1961
1.04 note	Am.	1961
1.05-1.07	Am.	1958
1.05(b)	Am.	1961
1.08	Am.	1958
1.08	Am.	1958
1.09	Am.	1958
1.09-1 to 1.09-3	New	1958
1.09-3	Am.	1961
1.10(4)	Am.	1960
1.10(5)	Am.	1958
1.10(17)	New	1960
1.14	Am.	1958
§ 1	Am.	1960
1.15	Am.	1958
1.16	Am.	1958
1.17	Am.	1958
1.18	Am.	1958
1.19	Am.	1958

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Ins. Code	Effect	Vernon's Texas St.Supp.	Ins. Code	Effect	Vernon's Texas St.Supp.
2.01	Am.	1956	3.40	Am.	1961
2.02	Am.	1956	(5)	Am.	1961
2.03	Am.	1956	3.42	Am.	1958
2.03-1	New	1956	3.43	Rep.	1958
2.04	Am.	1956	3.44(7)	Am.	1960
2.05	Am.	1956	3.49-1	New	1954
2.07,			3.49-2	New	1960
§ 1	Am.	1958	3.50	Am.	1958
§ 1	Am.	1961	§ 1(1) (d)	Am.	1956
§ 5	Am.	1961	§ 1(1) (d)	Am.	1960
§ 6	Am.	1956	§ 1(3)	Am.	1954
2.08	Am.	1956	§ 1(3)	Am.	1956
2.08	Am.	1960	§ 1(3)	Am.	1961
2.08	Am.	1961	§ 1(4)	Am.	1956
2.10	Am.	1956	§ 1(4)	Am.	1960
2.10	Am.	1961	§ 1(5.6)	New	1961
2.10(3)	Am.	1960	3.51, § 1	Am.	1961
2.11	Am.	1961	3.60	Am.	1956
2.14	Am.	1960	3.62-1	New	1958
2.18	Am.	1956	3.62-1	Am.	1961
2.20	New	1956	3.69	New	1956
2.21	New	1956	3.70-1 to 3.70-10	New	1956
3.01	Am.	1961	4.01	Am.	1958
3.02	Am.	1956	5.01	Am.	1954
3.02a	New	1956	5.04	Am.	1954
3.02a	Am.	1961	5.05	Am.	1954
3.03	Rep.	1956	5.09	Am.	1954
3.04	Am.	1956	5.11	Am.	1954
3.04	Am.	1958	5.13	Am.	1956
§ 1(3)	Am.	1960	5.26	Am.	1956
3.06	Am.	1956	5.50	Am.	1956
3.10	Am.	1961	5.54	Am.	1956
3.11	Am.	1956	5.55	Am.	1954
3.12	Am.	1958	5.58	Am.	1954
3.15	Am.	1958	5.60	Am.	1954
3.16	Am.	1958	5.65	Am.	1954
3.16	Am.	1961	5.76	New	1956
3.17	Am.	1961	5.76 to 5.79	New	1954
3.18	Am.	1961	6.01	Am.	1960
3.19	Rep.	1961	6.02	Am.	1960
3.22	Am.	1956	6.04-6.08	Am.	1956
3.28	Am.	1960	6.08	Am.	1961
3.30	Am.	1956	6.12, § 6	Am.	1960
3.32	Am.	1956	7.01-7.18	Rep.	1958
3.34	Am.	1954	7.01	New	1960
3.34	Am.	1960	7.19-1	New	1960
3.34	Am.	1961	8.05	Am.	1956
(as amended by			8.10	Am.	1956
ch. 168, § 1)	Rep.	1961	8.14	Am.	1960
3.39,			8.18	Am.	1956
3.39	Am.	1961	8.18	Am.	1961
(1)	Am.	1960	8.19	Am.	1961
(2)	Am.	1960	9.01	Am.	1956
(6)	Am.	1960	9.01a	New	1958
(9)	Am.	1956	9.01-1	New	1961
(10)	New	1960	9.02	Am.	1956
3.39a	New	1961	9.03	Am.	1956
3.40	Am.	1956	9.06	Am.	1956
3.40	Am.	1960			

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.
9.07	Am.	1956
9.09	Am.	1958
9.11	Am.	1956
9.11	Am.	1960
9.25	Am.	1956
10.05	Am.	1960
10.08	Am.	1956
10.18	Am.	1960
10.40, § 3	Am.	1956
11.01	Am.	1956
11.02	Am.	1954
11.02	Am.	1956
11.09	Am.	1960
11.10	Am.	1954
11.10	Am.	1956
11.11	Am.	1956
11.12	Am.	1954
11.12	Am.	1956
11.17	Am.	1954
11.17	Am.	1956
11.19	Am.	1956
14.17	Am.	1960
14.23	Am.	1961
14.61, § 1(c)	Am.	1956
14.63	New	1956
15.04	Am.	1956
15.06	Am.	1956
15.08	Am.	1956
15.11	Am.	1956
16.01, § 2	Am.	1956
16.06	Am.	1954
16.06	Am.	1956
16.07	Am.	1954
16.11	Am.	1954
17.02	Am.	1956
17.03	Am.	1956
17.05	Am.	1954
17.06	Am.	1954
17.06	Am.	1956
17.09	Am.	1956
17.11	Am.	1954
17.11	Am.	1956
17.16	Am.	1954
17.16	Am.	1956
17.17	Am.	1954
17.22	Am.	1956
17.25,		
§ 1	Am.	1956
§ 4	Am.	1954
§ 5	Am.	1956
§ 7	Am.	1954
§ 7	Rep.	1956
§ 9	Am.	1954
§ 9	Am.	1956
§ 20	Am.	1956
§ 22	New	1954
§ 22	Rep.	1956
18.04	Am.	1956
18.05	Am.	1956

Ins. Code Art.	Effect	Vernon's Texas St.Supp.
18.07	Am.	1956
18.09	Am.	1956
18.11	Am.	1956
18.23	Am.	1956
19.02	Am.	1960
19.03	Am.	1956
19.06	Am.	1956
19.10	Am.	1956
19.10	Am.	1960
19.11	Am.	1956
19.12	Am.	1956
20.10	Am.	1960
20.12	Am.	1960
20.16	Am.	1960
20.19	Am.	1960
21.07,		
§ 2	Am.	1960
§ 3	Am.	1960
§ 6	Am.	1956
§ 7	Am.	1960
21.07-1	New	1956
§ 8	Am.	1960
§ 9	Am.	1960
21.07-2	New	1956
21.11	Am.	1956
21.14,		
§ 8	Am.	1960
§ 12	Am.	1960
21.21	Am.	1958
21.21-1	New	1961
21.25	Am.	1961
21.26	Am.	1960
21.26	Am.	1961
21.28	Am.	1956
§§ 8(e)-8(h)	Am.	1961
21.32	Am.	1960
21.38,		
§ 2	Am.	1958
§§ 5-7	Am.	1958
21.39	Am.	1956
21.43	Am.	1960
21.44	New	1956
21.45	New	1956
21.46 to 21.48	New	1958
21.47	Am.	1961
21.48	Rep.	1961
22.01-22.21	New	1961

**TEXAS NON-PROFIT CORPORATION ACT**

Non-Profit Corp. Act Art.	Effect	Vernon's Texas St.Supp.
1.01 to 11.01	New	1960
2.01, subs. A(1)	New	1961
2.08, § E	New	1961
9.03	Am.	1961
10.04, § G	New	1961



VERNON'S TEXAS STATUTES

PROBATE CODE		
Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
1-435	New	1958
3(aa)	Am.	1958
3(d)	Am.	1961
33	Am.	1958
46	Am.	1961
58a	New	1961
59	Am.	1961
72	Am.	1960
78(c)	Am.	1958
89	Am.	1961
105a	Added	1961
124	Am.	1958
137(d)	Am.	1958
144(d)	New	1958
145	Am.	1958
146	Am.	1958
157	Am.	1958
193	Am.	1958
194	Am.	1958
201	Am.	1958
202	Am.	1958
219	Rep.	1958
228	Am.	1958
241	Am.	1958
253	Am.	1958
348(a)	Am.	1960
367,		
(c) 7	Am.	1958
(c) 7	Am.	1961
(c) (7a)	New	1961
(c) (8)	New	1961
368(b)	Am.	1958
369,		
(a) (2)	Am.	1961
370	Am.	1958
389(g)	New	1961
390	Am.	1960
399	Am.	1958
400	Am.	1958
401	Am.	1958
407	Am.	1960

TAXATION—GENERAL

Taxation-General Art.	Effect	Vernon's Texas St.Supp.
1.01 to 24.01	New	1960
1.07	Am.	1961
1.07A	New	1961
1.07B	New	1961
1.12	New	1961
1.13	New	1961
3.03, §§ (1), (3), (4)	Am.	1961
3.08	Am.	1961
3.11	New	1961
4.03, §§ (7), (10)	Am.	1961
4.06	Am.	1961

Taxation-General Art.	Effect	Vernon's Texas St.Supp.
5.03	Am.	1961
7.02(3)	New	1961
7.15	Am.	1961
8.03	Am.	1961
9.03(3)	Am.	1961
9.03(5)	New	1961
9.13(5), (6)	Am.	1961
9.13(6a)	New	1961
9.13(13)	Am.	1961
9.13(14)	Am.	1961
9.25	Am.	1961
11.11	Am.	1961
12.01	Am.	1961
12.02	Am.	1961
12.03	Am.	1961
12.08	Am.	1961
12.09	Am.	1961
12.10	Am.	1961
12.14	Am.	1961
12.15	Am.	1961
12.19, § (3)	Am.	1961
12.21	Am.	1961
13.02	Am.	1961
13.03	Am.	1961
13.08	Am.	1961
17.04	Am.	1961
17.05(a)	Am.	1961
17.05(c)	Am.	1961
18.03	Am.	1961
19.01(2)	Am.	1961
19.02, §§ (3), (5)	Am.	1961
20.01-20.17	Am.	1961
20.01(h)	Am.	1961
21.04, § (1)	Am.	1961
23.07	New	1961

PENAL CODE

P.C. Art.	Effect	Vernon's Texas St.Supp.
34	Am.	1958
101a	Rep.	1952
105	Am.	1956
131c-1, § 26a	New	1950
157a	New	1956
158	Am.	1958
159	Am.	1958
160-a	New	1950
160-b	New	1950
179-183	Rep.	1958
183-1	New	1958
183-2	New	1958
252	Rep.	1960
262-269	Rep.	1960
286a	New	1961
296	Am.	1954
301d	Am.	1950
302	Am.	1961
306	Am.	1961

ARTICLES AFFECTED FROM 1949 TO 1961

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
353b	New	1950	666-17,		
353c	New	1958	(14) (a)	Am.	1958
427a	Rep.	1958	(15)	Am.	1952
430a	Rep.	1950	(22)	Am.	1954
432	Am.	1950	666-21	Am.	1952
432	Am.	1952	666-21	Am.	1960
438c	Am.	1952	666-21a	Am.	1950
438d	New	1952	666-21a	Am.	1952
474	Am.	1950	666-21¼	New	1958
480	Am.	1952	666-21½	New	1952
483	Am.	1952	666-21½	New	1950
483	Am.	1958	666-23a(4)	Am.	1958
489	Am.	1961	666-25b	New	1956
489c	New	1950	666-27½	New	1952
§ 1	Am.	1958	666-30	Am.	1950
519	Am.	1960	666-32	Am.	1954
527	Am.	1956	666-32	Am.	1956
527	Am.	1958	666-33	Am.	1954
527	Am.	1961	666-36	Am.	1954
527a	Am.	1953	666-36½	New	1950
527b	Am.	1956	666-37	Am.	1954
534	Am.	1950	666-39	Am.	1954
534a	New	1950	666-40	Am.	1954
534a	Am.	1954	666-41a	Am.	1950
535b	New	1950	666-42	Am.	1950
§ 2	Am.	1956	666-44	Rep.	1950
535c	New	1950	666-45(d)	Am.	1960
§ 2	Am.	1958	666-49a	New	1950
535d	New	1950	666-50	New	1950
§ 3	Am.	1956	666-51a	New	1950
567b	Am.	1952	666-52	New	1950
§ 1a	New	1958	666-52	Am.	1954
590a	Rep.	1952	666-53		
602	Am.	1960	to		
602-A	New	1960	666-56	New	1950
614	Am.	1960	666-57	New	1961
614-2	Am.	1961	667-2a	New	1958
642a	New	1952	667-3	Am.	1950
642b	New	1952	(a)	Am.	1960
642c	New	1952	(a-1)	Am.	1961
666-3a	Am.	1950	(b)	Am.	1960
(7)	Am.	1960	(c)	Am.	1960
666-8	Am.	1958	(k)	New	1961
666-11			667-5	Am.	1950
to			667-5	Am.	1954
666-13	Am.	1950	(1)	Am.	1961
666-15	Am.	1950	667-5A	Rep.	1950
666-15	Am.	1952	667-5A	New	1961
(1a)	Am.	1961	667-5B	New	1961
(7)	Am.	1961	667-6	Am.	1958
(7a)	New	1961	667-7	Am.	1954
(13)	Am.	1958	667-9	Am.	1954
(17)	Am.	1956	667-10½	Am.	1958
666-15a1	Am.	1950	667-17	Am.	1950
666-15(e)	New	1961	667-19	Am.	1950
666-17	Am.	1950	667-19	Am.	1954
(1)	Am.	1952	667-19B	Am.	1950
(1)	Am.	1954	667-19B	Am.	1954
(2)	Am.	1952	667-19C	New	1952
(3) (g)	New	1956	667-19D	New	1954

VERNON'S TEXAS STATUTES

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
667-20	Am.	1950	734a,		
667-23	Am.	1950	§ 9	Am.	1961
667-23	Am.	1952	§ 20	Am.	1952
667-23	Am.	1956	§ 20	Am.	1961
667-23 1/8	New	1960	§ 20a	New	1952
667-23 1/4	New	1950	§ 22-A	Am.	1958
667-23 1/4	Am.	1954	§ 26	Am.	1952
667-23 1/2	Am.	1954	§ 27	Am.	1961
667-23a	New	1950	734b	Am.	1954
667-24a	Am.	1950	735	Am.	1952
667-24 1/4	New	1952	740	Am.	1950
667-25	Am.	1954	741	Am.	1950
667-28			741	Am.	1954
to			742-a to 742-c	New	1950
667-31	New	1950	743	Am.	1954
667-28	Am.	1961	744-a	New	1950
667-32	New	1954	744-b	New	1950
696a, § 1(a, b)	Am.	1958	747	Am.	1954
698b	Rep.	1961	751a	New	1961
700b, § 2	Am.	1952	752c,		
701b	Rep.	1954	§ 4	Am.	1950
705b-1	Am.	1952	§ 4	Am.	1952
705c, § 3a	New	1952	753	Am.	1952
705c	Rep.	1956	753	Am.	1954
705d	New	1956	753	Am.	1958
706-709	Rep.	1961	(8)	New	1961
709	Am.	1952	754	Am.	1954
712	Am.	1956	754a	Am.	1952
717	Rep.	1961	(2)	Am.	1954
719e	New	1950	(5)	New	1956
725b	Am.	1956	(6)	New	1960
§ 1	Am.	1954	(7)	New	1960
§ 4	Rep.	1954	754b	New	1950
§ 5	Am.	1954	754b	Am.	1952
§ 9	Am.	1954	754c	New	1960
§ 18a	New	1954	759-762a	Rep.	1954
§ 23	Am.	1954	778	Am.	1952
§ 23(1)	Am.	1961	778a	Am.	1952
§ 23(2)	Am.	1958	779	Am.	1952
§ 24a	Rep.	1954	782b	New	1960
725c	New	1954	802	Am.	1954
§ 1	Am.	1961	802a-1	New	1956
§§ 3, 4	Am.	1956	802b	Am.	1952
725d	New	1956	802d	New	1952
726	Rep.	1958	802e	New	1958
726-1	New	1958	821a	New	1960
726-2	New	1958	827a,		
726b	New	1950	§ 2	Am.	1950
§ 2	Am.	1956	§ 3(a)	Am.	1954
726b	Rep.	1960	§ 3(a)	Am.	1956
726c	New	1952	§ 3(c)	Am.	1950
§ 2(g)	Am.	1956	§ 3(c)	Am.	1954
§ 3(2) (b)	Am.	1956	§ 3(c)	Am.	1956
§ 3(2) (d)	Rep.	1956	§ 5	Am.	1952
§ 6	Am.	1956	§ 5	Am.	1960
§ 13	Am.	1956	§ 5c	New	1958
726c	Rep.	1960	§ 5 1/2	New	1952
726d	New	1960	§ 5 1/2	Am.	1960
			§ 6	Am.	1952

ARTICLES AFFECTED FROM 1949 TO 1961

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
827a,			923m	Am.	1958
§ 6	Am.	1954	§ 4	Am.	1960
§ 8	Am.	1952	923x	New	1961
§ 8	Am.	1956	924a	New	1956
§ 8, subs. 1			934a,		
(b) (5)		662	§ 3, subs. 5		
§ 8, subs. 2A	New	1961	(a, b)	Rep.	1960
827a-1	New	1952	934b-1	Rep.	1950
827a-1	Rep.	1960	934b-2	New	1950
827a-2	New	1954	934c	New	1952
827a-2	Am.	1956	§ 5	Am.	1960
827a-3	New	1956	941b	New	1950
827a-4	New	1960	941b	Am.	1961
827b,			941-2	New	1960
§ 2A	New	1950	§ 1	Am.	1960
§ 2A	Am.	1954	952aa-4	New	1960
§ 2A	Am.	1958	952l-7	Am.	1950
§ 3	Am.	1958	952l-11,		
827e-1	New	1958	§ 1(3)	Rep.	1960
834	Rep.	1960	§ 1(5)	Rep.	1960
861b	New	1958	§ 1c	New	1950
872	Am.	1961	§ 1c	Am.	1958
872f	New	1950	954	Am.	1961
879f-6	New	1952	978f-3	New	1952
879g-2a	Am.	1950	978f-4	New	1954
879g-2a	Am.	1960	978f-5	New	1956
879g-4	New	1960	978f-6	New	1960
879h-1			978h, § 2	Am.	1956
to			978k, § 11a	New	1958
879h-5	New	1960	978k-1	New	1958
879h-1 note	Am.	1961	978l-2,		
880	Am.	1950	§§ 16, 17	Rep.	1960
880	Am.	1954	§ 19	Am.	1960
880	Am.	1958	978l-5	New	1950
§ 1	Am.	1961	§ 4	Am.	1952
880a	New	1958	978l-6	New	1950
880a	Am.	1961	978l-7	New	1961
880b	New	1958	978n-1	New	1950
880c	New	1960	§ 1	Am.	1960
881b,			§ 1	Am.	1961
§ 1	Am.	1961	§ 7	Am.	1960
882a	New	1954	978o	New	1954
888	Am.	1958	1042b, § 3	Am.	1954
893	Am.	1954	1083a	Am.	1952
895a	New	1950	1083a	Rep.*	1956
895b	New	1952	1106(b)	Am.	1956
§ 2	Am.	1954	(c)	New	1952
895c	New	1958	1106a	Am.	1961
§ 6	Am.	1961	1111a	Rep.	1960
901	Am.	1961	1111d,		
908	Am.	1954	§ 2	Am.	1952
908	Am.	1956	§ 4	Am.	1952
908	Am.	1960	§ 5	Am.	1952
912	Am.	1954	§ 5½	New	1950
923b	Rep.	1956	§ 7a	New	1954
923f-1	New	1961	1111d	Rep.	1960
923h-1	Am.	1950	1111m	New	1956

\*Art. 1083a was transferred to Civil Statutes art. 600, § 30, in 1954.

**VERNON'S TEXAS STATUTES**

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1112a	Rep.	1954	1505a	New	1960
1137e-1	New	1961	1525b,		
1137m	New	1956	§ 9	Am.	1961
1137m	Rep.	1960	§ 10	Am.	1961
1137n	New	1960	§ 11	Am.	1961
1146a	New	1950	§ 13	Am.	1961
1147	Am.	1950	§ 22	Am.	1960
1147	Am.	1956	§ 22a	New	1954
1148	Am.	1950	§ 22a	Am.	1960
1160,			§ 22b	New	1954
§ 1	Am.	1961	§ 23A	New	1960
1260a	New	1950	1525b-1	New	1960
1321a	New	1952	1525b-2	New	1960
1321b	New	1952	1525b-3	New	1961
1333A	New	1950	1525g	New	1961
1334	Am.	1961	1526-1532	Rep.	1954
1334a	New	1961	1538	Am.	1960
1341	Am.	1960	1545	Am.	1960
1344-1346	Rep.	1952	1554a	New	1960
1350	Am.	1952	1555b	New	1960
subd. 1	Am.	1958	1583(6)	Rep.	1956
1351a, § 1-b	New	1954	1583	Rep.	1960
1370	Am.	1950	1583-1,		
1370a	Am.	1960	§ 3a	New	1952
1377	Am.	1950	§ 6	Am.	1956
1377	Rep.	1960	§ 6	Am.	1960
1377b	New	1960	§ 6A	New	1960
1378a, §§ 11-13	Am.	1952	§ 6B	New	1960
1379	Am.	1954	§ 7	Am.	1952
1379	Am.	1961	1583-2	Am.	1950
1398	Am.	1952	§ 1	Am.	1952
1402a	New	1956	§ 1	Am.	1954
1404b	New	1952	§ 1-a	Rep.	1952
1404b	Am.	1956	1593a	Rep.	1950
1435a	New	1958	1648a	New	1958
1436-1,			§ 1	Am.	1961
§ 1	Am.	1960	§§ 3, 4	Am.	1961
§ 2b	New	1960	§§ 5, 6	Am.	1961
§ 2c	New	1960	§ 8	Am.	1961
§§ 7-9	Am.	1952	1690b,		
§ 30(a)	New	1956	(d)	Am.	1956
§ 49(e)	Am.	1960	(j)	Am.	1956
§ 57	Am.	1952	(k)	Am.	1956
§ 57	Am.	1956	1690e	New	1961
§ 57a	New	1956	1693	Am.	1954
1436-2	New	1961	1700	New	1954
1436c	New	1952	1709 to 1720	Rep.	1961
1436d	New	1954	1712	Am.	1950
1436e	New	1960	1716(1)	Am.	1952
1436f	New	1961	1721	New	1950
1442c	New	1961	1721A	New	1956
1456a	New	1956	1722	New	1952
§ 1	Am.	1961	1722a	New	1960
§ [5]	New	1961	§ 4(f)	Am.	1960
1477	Am.	1952	§ 15(a)	Am.	1961
1489	Am.	1954	1723	New	1952
1492	Am.	1954	1724	New	1958
1493	Am.	1954	1725	New	1958

ARTICLES AFFECTED FROM 1949 TO 1961

CODE OF CRIMINAL PROCEDURE			Vernon's Texas St. Supp.		
C.C.P. Art.	Effect	Vernon's Texas St. Supp.	C.C.P. Art.	Effect	Vernon's Texas St. Supp.
10a	Am.	1960	623	Am.	1950
12	Am.	1960	658	Am.	1954
43	Am.	1961	659	Am.	1954
52-1 note	Am.	1952	662	Rep.	1954
52-8 note	New	1952	663	Rep.	1954
52-24b	New	1956	667	Am.	1954
52-24c	New	1956	670	Am.	1956
52-61a	New	1958	678	Am.	1954
52-158a	New	1952	727a	Am.	1954
52-158b	New	1960	732a	New	1952
52-159a	New	1952	733a	New	1961
52-159b	New	1956	755	Am.	1952
§ 13-A	New	1960	759a	New	1952
52-159c	New	1961	§ 1(D)	Am.	1954
52-160a, § 5	New	1956	§ 2	Am.	1954
52-160b	New	1950	§ 2	Am.	1950
52-161, § 15a	New	1954	§ 3	Rep.	1956
177	Am.	1960	§ 4	Am.	1960
271c	New	1958	§ 5	Am.	1960
§ 4	Am.	1958	760d	New	1952
§ 6	Am.	1958	760d	Am.	1960
275a	New	1958	760e	New	1952
277, § 2	New	1952	768	Am.	1958
332a	New	1954	775a	Rep.	1958
333	Am.	1952	781b	Rep.	1958
338	Am.	1952	§ 17	Rep.	1954
338b	New	1952	781b-1	New	1950
348	Am.	1952	781b-2	New	1956
367f	New	1950	781c	New	1952
367g	New	1950	781d	New	1958
367h	New	1952	§ 6	Am.	1960
367i	New	1956	802	Am.	1952
367j	New	1958	807	Am.	1957
367k	New	1960	809	Am.	1950
408a	New	1960	921-932	Rep.	1958
486a	New	1952	932-1	New	1958
494	Am.	1958	932-2	New	1958
494	Am.	1960	932a	Rep.	1958
494a	New	1952	932b	New	1958
494a	Am.	1960	959-966	Rep.	1958
§ 1A	Rep.	1960	970b	New	1954
494b	New	1952	989a	New	1956
501	Am.	1960	989a,		
502	Am.	1960	§ 1	Am.	1961
505	Am.	1960	§ 12	Am.	1961
517	Am.	1960	1008a	New	1952
518	Am.	1960	1036,		
519	Am.	1960	(4)	Am.	1961
563	Am.	1954	1038	Am.	1954
564	Am.	1954	1052	Am.	1950
582	Am.	1960	1052	Am.	1954
591	Am.	1956	1056	Am.	1954
591	Am.	1958	1056	Am.	1950
597	Am.	1952	1058	Am.	1952
597	Am.	1958	1061	Am.	1956
601-a	Am.	1950	1068	Am.	1956
601-A	Am.	1958	1070	Am.	1956
			1074	Am.	1954



# JUDGES AND OFFICERS

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## SUPREME COURT

ROBERT W. CALVERT, CHIEF JUSTICE  
MEADE F. GRIFFIN, ASSOCIATE JUSTICE    JAMES R. NORVELL, ASSOCIATE JUSTICE  
CLYDE E. SMITH, ASSOCIATE JUSTICE    JOE R. GREENHILL, ASSOCIATE JUSTICE  
FRANK P. CULVER, Jr., ASSOCIATE JUSTICE    ROBERT W. HAMILTON, ASSOCIATE JUSTICE  
RUEL C. WALKER, ASSOCIATE JUSTICE    ZOLLIE STEAKLEY, ASSOCIATE JUSTICE  
GEORGE H. TEMPLIN, CLERK  
CARL B. LYDA, CHIEF DEPUTY CLERK

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## COURT OF CRIMINAL APPEALS

KENNETH K. WOODLEY, PRESIDING JUDGE  
W. A. MORRISON, JUDGE    W. T. McDONALD, JUDGE  
ERNEST BELCHER, COMMISSIONER  
WESLEY DICE, COMMISSIONER  
GLENN HAYNES, CLERK

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## COURTS OF CIVIL APPEALS

### *First District—Houston*

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EWING WERLEIN, ASSOCIATE JUSTICE    TOM F. COLEMAN, ASSOCIATE JUSTICE  
ROLA HAMM, CLERK

### *Second District—Fort Worth*

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THOMAS J. RENFRO, ASSOCIATE JUSTICE    BEN W. BOYD, ASSOCIATE JUSTICE  
MRS. K. M. BURKHALTER, CLERK  
LIDA SWANSON, DEPUTY CLERK

### *Third District—Austin*

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ROBERT G. HUGHES, ASSOCIATE JUSTICE    C. K. RICHARDS, ASSOCIATE JUSTICE  
MRS. R. E. MOORE, CLERK

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JACK POPE, ASSOCIATE JUSTICE    H. D. BARROW, ASSOCIATE JUSTICE  
ROBERT L. COOK, CLERK



JUDGES AND OFFICERS

COURTS OF CIVIL APPEALS—Cont'd.

*Fifth District—Dallas*

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TOWNE YOUNG, ASSOCIATE JUSTICE      CLAUDE WILLIAMS, ASSOCIATE JUSTICE  
JUSTIN G. BURT, CLERK

*Sixth District—Texarkana*

T. C. CHADICK, CHIEF JUSTICE  
WILLIAM J. FANNING, ASSOCIATE JUSTICE      MATT DAVIS, ASSOCIATE JUSTICE  
LOUISE GILMER, CLERK

*Seventh District—Amarillo*

JAMES G. DENTON, CHIEF JUSTICE  
ERNEST O. NORTHCUTT, ASSOCIATE JUSTICE  
ALTON B. CHAPMAN, ASSOCIATE JUSTICE  
ELMO PAYNE, CLERK

*Eighth District—El Paso*

JIM C. LANGDON, CHIEF JUSTICE  
ALAN R. FRASER, ASSOCIATE JUSTICE      WILLIAM CLAYTON, ASSOCIATE JUSTICE  
E. J. REDDING, CLERK

*Ninth District—Beaumont*

L. B. HIGHTOWER, CHIEF JUSTICE  
W. T. McNEILL, ASSOCIATE JUSTICE      HOMER E. STEPHENSON, ASSOCIATE JUSTICE  
ELIZABETH LE BLANC, CLERK

*Tenth District—Waco*

FRANK G. McDONALD, CHIEF JUSTICE  
JAKE TIREY, ASSOCIATE JUSTICE      FRANK M. WILSON, ASSOCIATE JUSTICE  
ROBERT IVY GAGE, CLERK

*Eleventh District—Eastland*

CLYDE GRISSOM, CHIEF JUSTICE  
CECIL C. COLLINGS, ASSOCIATE JUSTICE      ESCO WALTER, ASSOCIATE JUSTICE  
HOMER SMITH, CLERK

WILL WILSON, ATTORNEY GENERAL

**OFFICIALS  
OF  
THE STATE OF TEXAS**

---

PRICE DANIEL -----Governor -----Liberty  
BEN RAMSEY -----Lieutenant Governor -----San Augustine  
WILL WILSON -----Attorney General -----Dallas  
P. FRANK LAKE -----Secretary of State -----Austin  
JESSE JAMES -----State Treasurer -----Austin  
JOHN C. WHITE -----Commissioner of Agriculture ----Wichita Falls  
JERRY SADLER -----Commissioner of General Land Office -Palestine  
ROBERT S. CALVERT ----Comptroller of Public Accounts -----Austin  
JAMES M. FALKNER ----Banking Commissioner -----Austin  
CHARLES H. CAVNESS --State Auditor -----Austin

\*



## SENATE

PRESIDENT ----- Ben Ramsey  
 PRESIDENT PRO TEMPORE, Regular Session ----- Ray Roberts  
 PRESIDENT PRO TEMPORE, 1st C. S. ----- Preston Smith  
 PRESIDENT PRO TEMPORE, 2nd C. S. ----- Doyle Willis  
 SECRETARY OF THE SENATE ----- Charles A. Schnabel, Jr.

<i>Name</i>	<i>Dist.</i>
Aikin, A. M., Jr. ----- 34 Clarksville ----- Paris -----	1
Baker, Robert W. ----- 4614 Merwin St. ----- Houston -----	6
Calhoun, Galloway, Jr. ----- Box 296 ----- Tyler -----	7
Colson, Mrs. Neveille H. ----- 202 Brewer ----- Navasota -----	5
Creighton, Thomas ----- 805 N. W. 11th ----- Mineral Wells -----	22
Crump, Louis ----- Box 417 ----- San Saba -----	16
Dies, Martin, Jr. ----- Box 1196 ----- Lufkin -----	3
Fuller, Jep S. ----- 228 Adams Bldg. ----- Port Arthur -----	4
Gonzalez, Henry B. ----- 501 Houston Bldg. ----- San Antonio -----	26
Hardeman, Dorsey B. ----- Box 70 ----- San Angelo -----	25
Hazlewood, Grady ----- 518 Petroleum Bldg. ----- Amarillo -----	31
Herring, Charles F. ----- 906 Perry-Brooks Bldg. ----- Austin -----	14
Hudson, Hubert R. ----- First Natl. Bk. Bldg. ----- Brownsville -----	27
Kazen, Abraham, Jr. ----- Raymond Bldg. ----- Laredo -----	21
Krueger, Culp ----- Box 1390 ----- El Campo -----	15
Lane, Wardlow ----- Box 787 ----- Center -----	2
Martin, Crawford C. ----- Box 257 ----- Hillsboro -----	12
Moffett, George ----- Box 768 ----- Chillicothe -----	23
Moore, William T. ----- Box 1187 ----- Bryan -----	11
Owen, Frank, III ----- 1304 Bassett Tower ----- El Paso -----	29
Parkhouse, George ----- Box 6624 ----- Dallas -----	8
Patman, William N. (Bill) ----- Box 665 ----- Ganado -----	18
Ratliff, David W. ----- Box 1123 ----- Stamford -----	24
Reagan, Bruce A. ----- 3126 Topeka ----- Corpus Christi -----	20
Roberts, Ray ----- Box 618 ----- McKinney -----	9
Rogers, Andy ----- 123 Commerce ----- Childress -----	30
Schwartz, A. R. ----- 1414 Bayou Shore Drive ----- Galveston -----	17
Secrest, Jarrard ----- First Natl. Bldg. ----- Temple -----	13
Smith, Preston ----- 105 College Ave. ----- Lubbock -----	28
Weinert, R. A. ----- 112 N. Camp ----- Seguin -----	19
Willis, Doyle ----- Trans-American Life Bldg. ----- Ft. Worth -----	10

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# HOUSE OF REPRESENTATIVES

SPEAKER ----- James A. Turman  
 CHIEF CLERK ----- Mrs. Dorothy Hallman

<i>Name</i>	<i>Dist.</i>
Adams, J. Collier ----- 1309 Texas St. ----- Lubbock -----	97-2
Adams, James V. ----- 808 East 3rd St. ----- Mt. Pleasant -----	3
Alaniz, John C. ----- 529 W. Houston ----- San Antonio -----	68-7
Allen, John ----- 1003 E. Birdsong ----- Longview -----	13
Andrews, Tom ----- Conn Brown Bldg. ----- Aransas Pass -----	35
Atwell, Ben ----- Fidelity Union Life Bldg. ----- Dallas -----	51-2
Bailey, Scott ----- Cisco -----	76
Ballman, Charles L. ----- Box 575 ----- Borger -----	86
Banfield, Mrs. Myra ----- Box 687 ----- Rosenberg -----	30
Barlow, James E. ----- 1552 W. Huisache ----- San Antonio -----	68-6
Barnes, Ben ----- De Leon -----	73
Bartram, R. A. ----- Box 69 ----- New Braunfels -----	67
Bass, R. W. (Bob) ----- DeKalb -----	1-2
Bell, Marshall O. ----- 905 Alamo Natl. Bldg. ----- San Antonio -----	68-5
Berry, V. E. (Red) ----- Box 474 G., Rt. 6 ----- San Antonio -----	68-4
Blaine, John E. ----- 1326 E. Yandell ----- El Paso -----	105-2
Boysen, Stanley ----- Box 228 ----- Yoakum -----	47
Bridges, Ronald W. ----- 429 Rita Drive ----- Corpus Christi -----	36-1
Buchanan, J. W. ----- Box 935 ----- Dumas -----	95
Burgess, Steve ----- Rt. 1 ----- Nacogdoches -----	6
Butler, Jerry ----- Box 601 ----- Kenedy -----	58
Caldwell, Neil ----- Alvin -----	23
Cannon, Joe ----- 109 South Kaufman ----- Mexia -----	55
Carriker, Max D. ----- Box 545 ----- Roby -----	91
Chapman, Joe N. ----- Box 233 ----- Sulphur Springs -----	11
Cole, Criss ----- 711 Main Bldg. ----- Houston -----	22-7
Cole, James D. ----- Greenville -----	25
Collins, Sam F. ----- Box 36 ----- Newton -----	7
Connell, Jack, Jr. ----- 4619 Mistletoe ----- Wichita Falls -----	81-2
Cook, George H. ----- 309 N. Lee St. ----- Odessa -----	103
Cory, R. H. ----- 200 Victoria Nation- al Bank Bldg. ----- Victoria -----	33
Cotten, James M. ----- 110 College ----- Weatherford -----	72
Cowen, Warren C. (Red) ----- 3640 W. Seminary Dr. ----- Ft. Worth -----	60-7
Cowles, Nelson ----- Box 167 ----- Hallsville -----	4
Crain, Jack ----- Rt. 1 ----- Ringgold -----	71
Crews, David ----- 206 Darden Bldg. ----- Conroe -----	29
Curington, Paul W. ----- 1812 Woodlawn ----- Corsicana -----	42

## HOUSE OF REPRESENTATIVES

<i>Name</i>			<i>Dist.</i>
de la Garza, E. "Kika"	Box 805	Mission	38-3
Dewey, B. H., Jr.	Box 347	Bryan	44
Duff, Miss Virginia		Ferris	52
Dungan, W. T. (Bill)	Box 369	McKinney	50
Eckhardt, Bob	American Investors Bldg.	Houston	22-2
Ehrle, Will		Childress	88
Fairchild, Robert	Box 772	Center	5
Fletcher, Henry A.		Luling	66
Floyd, Paul	620 Byrne	Houston	22-1
Foreman, Wilson	Old Duval Road	Austin	65-1
Garrison, Don	721 Waugh Dr.	Houston	22-4
Gibbens, Wayne	Box 828	Breckenridge	75
Gladden, Don	506 Burkburnett Bldg.	Ft. Worth	60-2
Glass, W. W.	401 S. Bolton	Jacksonville	17
Glusing, Ben A.	Box 1321	Kingsville	37f
Green, Howard	Box 13214	Ft. Worth	60-6
Grover, Henry C.	1510 Marshall St.	Houston	22-3
Guffey, Lloyd M.	Rt. 1	El Campo	31
Hale, L. DeWitt	709 Wilson Bldg.	Corpus Christi	36-3
Harding, Forrest A.	Central Nat'l Bank Bldg.	San Angelo	92
Haring, Paul	Box 373	Goliad	34
Harrington, D. Roy	4007 Third St.	Port Arthur	9-3
Haynes, Clyde	Box 1235	Vidor	8
Heatly, W. S.	Drawer 1	Paducah	82
Hinson, Geo. T.	Box 387	Mineola	12
Hollowell, Bill	618 High St.	Grand Saline	26
Huebner, John A., Sr.	Box 1347	Bay City	32
Hughes, Charles E.	Commercial Bldg.	Sherman	48
Hughes, Robert H.	617 Davis Bldg.	Dallas	51-7
Isaacks, Miss Maud	3021 Federal	El Paso	105-1
James, Tom	9429 El Centro	Dallas	51-4
Jamison, Alonzo W., Jr.	616 W. Oak St.	Denton	59
Jarvis, Ben E.	Fair Foundation Bldg.,	Tyler	14
Johnson, Jake	Rt. 7, Box 219	San Antonio	68-1
Johnson, J. E.	600 West Lamar	Temple	63-1
Johnson, Robert E.	1502 Dallas Fed. Sav- ings Bldg.	Dallas	51-6
Jones, Obie	1307 Larkwood	Austin	65-2
Jones, William M. (Bill)	Mercantile Bank Bldg.	Dallas	51-3
Kennard, Don	4032 Eldridge	Ft. Worth	60-3
Kilpatrick, Rufus U.	Box 968	Beaumont	9-1
Koliba, Homer L., Sr.	Box 564	Columbus	46
Korioth, Tony	516 Commercial Bldg.	Sherman	49f

## HOUSE OF REPRESENTATIVES

<i>Name</i>		<i>Dist.</i>
Lack, Emmett	Kountze	19
Lary, Yale	2204 Hawthorne Ft. Worth	60-1
Latimer, Truett	Hardin-Simmons University	84
LaValle, Pete	Box 366 Texas City	21-2
Leaverton, H. A.	Box 196 Evant	62
Lewis, Ben	1501 Mercantile Bank Bldg.	51-5
Longoria, Raul L.	212½ W. 12th St. Edinburg	38-1
McCoppin, George W.	2017 Walnut Texarkana	1-1
McGregor, Frank B.	710 Liberty Bldg. Waco	53-2
McGregor, Malcolm	901 Bassett Tower El Paso	105-4
McIlhany, Grainger W.	Box 276 Wheeler	87
Markgraf, Jim	Scurry	41
Martin, Lloyd C.	Normangee	43
Miller, W. H.	2444 Times Blvd. Houston	22-5
Moore, J. W. (Bill)	Box 496 Ballinger	77
Mullen, Bob	Box 60 Alice	70
Murray, Menton J.	320 E. Van Buren Harlingen	39-1
Mutscher, Gus	Brenham	45
Niemeyer, H. O.	Knippa	79
Nugent, James E.	703½ Water St. Kerrville	78
Oliver, W. T.	2250 Sixth St. Port Neches	9-2
Osborn, Jesse M.	Box 416 Muleshoe	96
Parsons, Sam H.	2114 E. Main Henderson	16
Pearcy, C. W.	First Natl. Bank Bldg.	63-2
Peeler, Travis	401 Troy Corpus Christi	36-2
Petty, Olen R.	Box 235 Levelland	98
Pieratt, W. H. (Bill)	Box 60 Giddings	57
Pipkin, Maurice S.	Box 1032 Brownsville	39-2
Preston, George	1850 Cedar Paris	10
Price, Rayford	Frankston	27
Quilliam, Reed	1802 Avenue Q Lubbock	97-1
Rapp, Bill	Box 897 Raymondville	40f
Ratcliff, Joe	7720 Goforth Dallas	51-1
Read, David	Box 1506 Big Spring	101
Richards, George H.	Box 168 Huntsville	28
Richardson, George	1326 N. Main Ft. Worth	60-4
Roberts, Ronald	1613 Corona Dr. Hillsboro	54
Roberts, Wesley	507 So. First Lamesa	99
Rosas, Mauro	Caples Bldg. El Paso	105-3
Rosson, Renal B.	1824-26th St. Snyder	90
Sandahl, Charles L., Jr.	2412 E. 1st Austin	65-3
Schram, O. H.	Box 1138 Taylor	64
Shannon, Tommy	Box 3098 Ft. Worth	60-5
Shipley, Donald	717 Zola Dr. Houston	22-6
Slack, Richard C.	Box 808 Pecos	104
Slider, James L.	Box 178 Naples	2



## HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Smith, Stanford ----- Milam Bldg. ----- San Antonio -----	68-3
Smith, Will L. ----- 336 Bowie ----- Beaumont -----	9-4
Snelson, W. E. "Pete" ----- 2001 W. Louisiana ----- Midland -----	102
Spears, Franklin S. ----- Nat'l Bank of Com- merce Bldg. ----- San Antonio -----	68-2
Spilman, Wade F. ----- 1713 Iris ----- McAllen -----	38-2
Springer, Ted ----- c/o Globe News ----- Amarillo -----	94f
Stewart, Maco ----- 207 Stewart Bldg. ----- Galveston -----	21-1
Stewart, Vernon J. ----- 2901 Lebanon Rd. ----- Wichita Falls -----	81-1
Struve, Dan ----- ----- Campbellton -----	69
Thurman, Leon ----- Box 802 ----- Anson -----	85
Thurmond, Roger ----- Box 1053 ----- Del Rio -----	100
Townsend, Terry ----- 214 S. Blackburn ----- Brady -----	74
Trevino, Vidal ----- 2517 O'Kano St. ----- Laredo -----	80
Tunnell, Byron ----- Tyler Bank & Trust Bldg. ----- Tyler -----	15f
Turman, James A. ----- Box 44 ----- Gober -----	24
Walker, Bill Newton ----- ----- Cleveland -----	20
Ward, J. E. ----- Box 91 ----- Glen Rose -----	61
Watson, Murray, Jr. ----- 806 Amicable Bldg. ----- Waco -----	53-3
Wells, H. G. ----- ----- Tulia -----	89
Wheatley, J. C. (Carl) ----- Box 36 ----- Haskell -----	83
Whitfield, J. Charles, Jr. ----- 517 Legal Arts Bldg. ----- Houston -----	22-8
Wilson, Charles N. ----- Box 767 ----- Trinity -----	18
Wilson, J. Edgar ----- 1012 Milam St. ----- Amarillo -----	93
Woods, Jack ----- 2800 Old Robinson Rd. ----- Waco -----	53-1
Yezak, Herman ----- ----- Bremond -----	56

# CONSTITUTION OF THE STATE OF TEXAS

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## ADOPTED

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### ARTICLE II

#### THE POWERS OF GOVERNMENT

- § 2. Appeals from rulings of administrative agencies; trials de novo  
*Proposed addition of this section by H.J.R. No. 32, see page LXV*

### ARTICLE III

#### LEGISLATIVE DEPARTMENT

- § 24. Compensation and expenses of members of Legislature

Sec. 24. Members of the Legislature shall receive from the Public Treasury an annual salary of not exceeding Four Thousand, Eight Hundred Dollars (\$4,800) per year and a per diem of not exceeding Twelve Dollars (\$12) per day for the first one hundred and twenty (120) days only of each Regular Session and for thirty (30) days of each Special Session of the Legislature. No Regular Session shall be of longer duration than one hundred and forty (140) days.

In addition to the per diem the Members of each House shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed Two Dollars and Fifty Cents (\$2.50) for every twenty-five (25) miles, the distance to be computed by the nearest and most direct route of travel, from a table of distances prepared by the Comptroller to each county seat now or hereafter to be established; no Member to be entitled to mileage for any extra Session that may be called within one (1) day after the adjournment of the Regular or Called Session. As amended Nov. 8, 1960.

- § 49-b. Veterans' Land Board; bond issue; Veterans' Land Fund; purchase of lands and resale to Texas veterans

Sec. 49-b. There is hereby created a Board to be known as the Veterans' Land Board, which shall be composed of the Commissioner of the General Land Office, and two citizens of the State who shall be appointed by the Governor with the advice and consent of the Senate. The Governor shall biennially appoint one such member to serve for a term of four years, with the initial appointments to the Board under this section to be for terms of two and four years, respectively, and all subsequent appointments to be according to provisions of this section. One such appointive

## CONSTITUTION

member shall be well versed in veterans' affairs and the other such appointive member shall be well versed in finances. The Commissioner of the General Land Office shall act as Chairman of the Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as may be now or hereafter provided by law. The compensation for said appointive members shall be as fixed by the Legislature, and each shall make bond in such amount as may be prescribed by the Legislature. The Veterans' Land Board may issue not to exceed Two Hundred Million Dollars (\$200,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund. Such bonds shall be executed by said Board as an obligation of the State of Texas, in such form, denominations, and upon the terms as are now provided by law or as may hereafter be provided by law; provided, however, that said bonds shall bear a rate of interest not to exceed three per cent (3%) per annum, and that the same shall be sold for not less than par value and accrued interest.

In the sale of any such bonds, a preferential right of purchase shall be given to the administrators of the various Teacher Retirement Funds, the Permanent University Funds, and the Permanent School Funds; such bonds to be issued as needed, in the opinion of the Veterans' Land Board.

The Veterans' Land Fund shall be used by the Board for the sole purpose of purchasing lands suitable for the purpose hereinafter stated, situated in this State, (a) owned by the United States, or any governmental agency thereof; (b) owned by the Texas Prison System, or any other governmental agency of the State of Texas; or (c) owned by any person, firm, or corporation. Provided, however, the portion of the Veterans' Land Fund not immediately committed for the purchase of lands may be invested in short term United States bonds or obligations until such funds are needed for the purchase of lands. The interest accruing thereon shall become a part of the Veterans' Land Fund.

All lands thus purchased shall be acquired at the lowest price obtainable, to be paid for in cash, and shall be a part of the Veterans' Land Fund.

The lands of the Veterans' Land Fund shall be sold by the State to Texas veterans of the present war or wars, commonly known as World War II, and to Texas veterans of service in the armed forces of the United States of America subsequent to 1945, as may be included within this program by legislative Act, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now provided by law, or as may hereafter be provided by law.

All monies received and which have been received under the Constitutional Amendment as adopted by the people of Texas at the election held on November 13, 1951, and which have not been used for repurchase of land as provided herein by the Veterans' Land Board from the sale of lands and for interest on deferred payments, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas veterans of World War II, and to Texas veterans of service in the armed forces of the United States of America subsequent to 1945, as may be included within this program by legislative Act, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds, provided for herein, for a period ending December 1, 1959; provided, however, that so much of such monies as may be necessary during the period ending December 1, 1959, to pay the principal of and interest on the bonds heretofore issued and on bonds hereafter issued by the Veterans' Land Board, shall be set aside for that purpose. After De-

## ADOPTED AMENDMENTS

ember 1, 1959, all monies received by the Veterans' Land Board from the sale of the lands and interest on deferred payments, or so much thereof as may be necessary, shall be set aside for the retirement of bonds heretofore issued and to pay interest thereon, and any of such monies not so needed shall not later than the maturity date of the last maturing bond or bonds be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All bonds issued hereunder shall, after approval by the Attorney General of Texas, registration by the Comptroller of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute obligations of the State under the Constitution of Texas. Of the total Two Hundred Million Dollars (\$200,000,000) of bonds herein authorized, the sum of One Hundred Million Dollars (\$100,000,000) has heretofore been issued; said bonds heretofore issued are hereby in all respects validated and declared to be obligations of the State of Texas.

The additional bonds herein authorized may be sold in such installments as deemed necessary and advisable by the Veterans' Land Board. All monies received from the sale of land and for interest on deferred payments on land purchased with the proceeds of such additional bonds, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas veterans, as herein provided, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds provided for herein, for a period ending December 1, 1965; provided, however, that so much of such monies as may be necessary to pay interest on the additional bonds herein provided for shall be set aside for that purpose. After December 1, 1965, all monies received by the Veterans' Land Board from the sale of the lands and interest on payments, or so much thereof as may be necessary, shall be set aside for the retirement of said additional bonds and to pay interest thereon, and any of such monies not so needed shall not later than the maturity date of the last maturing bond be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law.

The foregoing notwithstanding, bonds hereafter issued by the Veterans' Land Board pursuant to the authority of this Section 49-b of the Constitution may bear a rate or rates of interest not to exceed three and one-half percent (3½%) per annum.

This amendment shall become effective upon its adoption. As amended Nov. 6, 1956; Nov. 8, 1960.

*Proposed amendment of this section by S.J.R. No. 25, see page LXV*

§ 49-d. Texas Water Development Board; acquisition and development of storage facilities in reservoirs

*Proposed addition of this section by H.J.R. No. 46, see page LXVI*

§ 51a. Payment of assistance to needy aged, needy blind and needy children

*Proposed amendment of this section by S.J.R. No. 9, see page LXVII*

§ 51-b. Assistance for totally and permanently disabled individuals

*Proposed amendment and renumbering of this section as Section 51-b-1 by S.J.R. No. 7, page LXVIII*

## CONSTITUTION

§ 51-b-1: Assistance for totally and permanently disabled individuals

*Amendment of Section 51-b, adopted Nov. 13, 1956, and renumbering thereof as Section 51-b-1 proposed by S.J.R. No. 7, see page LXVIII*

§ 52. Counties, cities, towns or other political corporations or subdivisions; lending credit; grants

Limitation on creation of water control and improvement districts, see Vernon's Ann.Civ.St. art. 7880—1a.

§ 60. Workmen's compensation insurance for employees of counties and other political subdivisions

*Proposed amendment of this section by H.J.R. No. 25, see page LXVIII*

§ 62. Continuity of State and Local Governmental Operations

*Proposed addition of this section by S.J.R. No. 13, see page LXIX*

## ARTICLE VII

### EDUCATION

§ 3—b. Independent school districts within Dallas County; change in boundaries; taxes and bonds

*Proposed addition of this section by S.J.R. No. 6, see page LXIX*

## ARTICLE IX

### COUNTIES

§ 1-A. Counties bordering on Gulf of Mexico or tidewater limits thereof; regulation of motor vehicles on beaches

*Proposed addition of this section by S.J.R. No. 19, see page LXX*

§ 6. Lamar county; hospital district; creation; tax rate

Sec. 6. The Legislature may by law authorize the creation of a Hospital District co-extensive with Lamar County, having the powers and duties and with the limitations presently provided in Article IX, Section 5(a), of the Constitution of Texas, as it applies to Wichita County, except that the maximum rate of tax that the said Lamar County Hospital District may be authorized to levy shall be seventy-five cents (75¢) per One Hundred Dollars (\$100) valuation of taxable property within the District subject to district taxation. Adopted Nov. 8, 1960.

§ 7. Hidalgo county; hospital district; creation; tax rate

Sec. 7. The Legislature may by law authorize the creation of a Hospital District co-extensive with Hidalgo County, having the powers and duties and with the limitations presently provided in Article IX, Section

## ADOPTED AMENDMENTS

5(a), of the Constitution of Texas, as it applies to Hidalgo County, except that the maximum rate of tax that the said Hidalgo County Hospital District may be authorized to levy shall be ten cents (10¢) per One Hundred Dollars (\$100) valuation of taxable property within the District subject to district taxation. Adopted Nov. 8, 1960.

### § 8. County Commissioners Precinct No. 4 of Comanche County; hospital district; creation; tax rate

Sec. 8. The Legislature may by law authorize the creation of a Hospital District to be co-extensive with the limits of County Commissioners Precinct No. 4 of Comanche County, Texas.

If such District is created, it may be authorized to levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property within the District; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified property taxpaying voters who have duly rendered their property for taxation. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of seventy-five cents (75¢) per One Hundred Dollar (\$100) valuation, and no election shall be required by subsequent changes in the boundaries of the Commissioners Precinct No. 4 of Comanche County.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the District may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the District shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the District to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said seventy-five cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the District.

(b) The Legislature may by law permit the County of Comanche to render financial aid to that District by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the District (whether assumed or created by the District) and may authorize the levy of a tax not to exceed ten cents (10¢) per One Hundred Dollar (\$100) valuation (in addition to other taxes permitted by this Constitution) upon all property within the County but without the County Commissioners Precinct No. 4 of Comanche County at the time such levy is made for such purposes. If such tax is authorized, the District shall by resolution assume the responsibilities, obligations, and liabilities of the County in the manner and to the extent hereinabove provided for political subdivisions having boundaries co-extensive with the District, and the County shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the County.

(c) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character. Adopted Nov. 8, 1960.

## CONSTITUTION

- § 9. Hospital districts; creation, operation, powers and duties  
*Proposed addition of this section by H.J.R. No. 51, see page LXX*
- § 10. Hospital districts; Brazoria county; creation; taxes  
*Proposed addition of this section by H.J.R. No. 70, see page LXXI*
- § 11. Hospital districts; Ochiltree, Castro, Hansford and Hopkins counties; creation; taxes  
*Proposed addition of this section by S.J.R. No. 22, see page LXXII*

## ARTICLE XVI

### GENERAL PROVISIONS

§ 11. Usury; rate of interest in absence of contract

Sec. 11. The Legislature shall have authority to classify loans and lenders, license and regulate lenders, define interest and fix maximum rates of interest; provided, however, in the absence of legislation fixing maximum rates of interest all contracts for a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious; provided, further, that in contracts where no rate of interest is agreed upon, the rate shall not exceed six per centum (6%) per annum. Should any regulatory agency, acting under the provisions of this Section, cancel or refuse to grant any permit under any law passed by the Legislature; then such applicant or holder shall have the right of appeal to the courts and granted a trial de novo as that term is used in appealing from the justice of peace court to the county court. As amended Nov. 8, 1960.

§ 26. Homicide; liability in damages

Relief from liability for civil damages for rendering emergency care, see art. 1a.

§ 33. Salary or compensation not paid agent, officer or appointee holding other office; exceptions

*Proposed amendment of this section by S.J.R. No. 12, see page LXXIII*

§ 34. Leases and sales to United States Government for military purposes

Conveyance of county land or interest in land to United States for military installation, see Vernon's Ann.Civ.St. art. 5248c-1.

§ 59. Conservation and development of natural resources; conservation and reclamation districts

Limitation on creation of water control and improvement districts, see Vernon's Ann.Civ.St. art. 7880-1a.

§ 62. State and county retirement, disability and death compensation funds

*Proposed amendment of this section by H.J.R. No. 36, see page LXXIII*

PROPOSED AMENDMENTS

PROPOSED AMENDMENTS

ARTICLE II

THE POWERS OF GOVERNMENT

Sec. 2. Appeals from rulings of administrative agencies; trials de novo

Sec. 2. Notwithstanding any other provision of the Constitution, the Legislature shall have the power, by general law, to provide for appeals to the courts from any and all actions, rulings or decisions of administrative agencies and executive departments of the State of Texas or any of its political subdivisions, under such provisions and limitations as the Legislature shall deem necessary and desirable; and the courts of Texas shall have no power or authority to refuse, deny, or change the manner of such appeals, if brought in the manner provided by general law, even though such appeals shall be provided de novo as that term is used in appeals from Justice of the Peace Courts to County Courts; and should the Legislature provide for such appeals to be tried completely de novo and independent of any administrative or executive action, ruling or decision thereon, the courts shall comply with such general law and shall hear and determine such appeals in the manner and under the conditions prescribed by the Legislature, even though such action on the part of the courts involves administrative or executive rather than judicial powers; provided, however, in the absence of legislation enacted subsequent to the adoption of this amendment, all such appeals shall continue to be prosecuted in the manner now provided by law, as interpreted and applied by the Appellate Courts of Texas on the date of the adoption of this amendment, and no change in the manner of such appeals shall be effected except by legislation enacted subsequent to the adoption of this amendment.

Proposed by House Joint Resolution No. 32, Acts 1961, 57th Leg., p. 1313. For submission to the people on Nov. 6, 1962.

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 49—b. Veterans' Land Board; bond issue; Veterans' Land Fund; purchase of lands and resale to Texas veterans

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The foregoing notwithstanding, any lands in the Veterans Land Fund which have been first offered for resale to veterans and which have not been sold may be resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now provided by law, or as may hereafter be provided by law.

This Amendment shall become effective upon its adoption.

Proposed by Senate Joint Resolution No. 25, Acts 1961, 57th Leg., p. 1311. For submission to the people on Nov. 6, 1962.



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### Sec. 49-d. Texas Water Development Board; acquisition and development of storage facilities in reservoirs

Sec. 49-d. It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the State, which waters are held in trust for the use and benefit of the public. To this end, and with the approval of the Board of Water Engineers or its successor, the proceeds from the sale of State bonds deposited in the Texas Water Development Fund as provided in Article III, Section 49-c of this Constitution, may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by general law, for the additional purposes of acquiring and developing storage facilities, for the conservation and development of water for useful purposes in and from reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, by any one or more of the following governments or governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the State; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations.

Under such provisions as the Legislature may prescribe by general law, the Texas Water Development Board may also, with the approval of the Board of Water Engineers or its successor, execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as State bonds issued under the authority of the preceding Section 49-c of this Constitution, and the provisions in said Section 49-c with respect to payment of principal and interest on State bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. If storage facilities are acquired for a term of years, such contracts shall contain provisions for renewal that will protect the State's investment.

The aggregate of the bonds authorized by said Section 49-c, plus the principal of the obligations incurred under any contracts authorized hereunder, shall not exceed the Two Hundred Million Dollars (\$200,000,000) in bonds authorized by said Section 49-c of Article III of this Constitution.

The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities at a price not less than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the State that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the Board of Water Engineers or its successor authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of storage facilities shall be used to pay principal and interest on State bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then out-

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standing and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such storage facilities may be used for the acquisition of additional storage facilities or for providing financial assistance as authorized by said Section 49-c. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities, and for the payment of principal and interest on debt incurred.

Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such Acts shall not be void by reason of their anticipatory character."

Proposed by House Joint Resolution No. 46, Acts 1961, 57th Leg., p. 1315. For submission to the people on Nov. 6, 1962.

### Sec. 51a. Payment of Assistance to Needy Aged, Needy Blind and Needy Children

The Legislature shall have the power, by General Laws, to provide, subject to limitations and restrictions herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient for assistance to, and for the payment of assistance to:

(1) Needy aged persons who are actual bona fide citizens of Texas, and who are over the age of sixty-five (65) years; provided that no such assistance shall be paid to any inmate of any state-supported institution, while such inmate, or to any person who shall not have actually resided in Texas for at least five (5) years during the nine (9) years immediately preceding the application for such assistance and continuously for one (1) year immediately preceding such application; provided that the maximum payment per month from state funds shall not be more than Twenty-five Dollars (\$25) per person; and provided further; that no payment in excess of Twenty-one Dollars (\$21) shall be paid out of state funds to an individual until and unless such additional amounts are matched by the Federal Government.

(2) Needy blind persons who are actual bona fide citizens of Texas, and are over the age of twenty-one (21) years; provided that no such assistance shall be paid to any inmate of any state-supported institution, while such inmate, or to any person who shall not have actually resided in Texas at least five (5) years during the nine (9) years immediately preceding the application for such assistance and continuously for one (1) year immediately preceding such application.

(3) Needy children who are actual bona fide citizens of Texas, and are under the age of sixteen (16) years; provided that no such assistance shall be paid on account of any child over one (1) year old who has not continuously resided in Texas for one (1) year immediately preceding the application for such assistance, or on account of any child under the age of one (1) year whose mother has not continuously resided in Texas for one (1) year immediately preceding such application.

The Legislature shall have the authority to accept from the Federal Government of the United States such financial aid for the assistance of the needy aged, needy blind, and needy children as such Government may offer not inconsistent with restrictions herein set forth; provided however, that the amount of such assistance out of state funds to each person assisted shall never exceed the amount so expended out of federal funds; and provided further, that the total amount of money to be expended out of state funds for such assistance to the needy aged, needy

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blind, and needy children shall never exceed the sum of Fifty-two Million Dollars (\$52,000,000) per year. The Legislature shall enact appropriate laws to make lists of the recipients of aid hereunder available for inspection, under such limitations and restrictions as may be deemed appropriate by the Legislature.

Proposed by Senate Joint Resolution No. 9, Acts 1961, 57th Leg., p. 1304. For submission to the people on Nov. 6, 1962.

### § 51-b. Assistance for totally and permanently disabled individuals

*For provisions of another Section 51-b, adopted Nov. 2, 1954, see Vernon's Texas 1956 Supp, p. XVI.*

Amendment and renumbering of this section as Section 51-b-1 proposed by Senate Joint Resolution No. 7, Acts 1961, 57th Leg., p. 1303. For submission to the people on Nov. 6, 1962.

### Sec. 51-b-1. Assistance for totally and permanently disabled individuals

Sec. 51-b-1. The Legislature shall have the power to provide by General Laws, under such limitations and restrictions as may be deemed by the Legislature expedient, for assistance to needy individuals, who are citizens of the United States, who shall have passed their eighteenth (18th) birthday but have not passed their sixty-fifth (65th) birthday, who are totally and permanently disabled by reason of a mental or physical handicap or a combination of physical and mental handicaps and not feasible for vocational rehabilitation, and who are residents of the State of Texas, who have resided in this state for at least one (1) year continuously immediately preceding the application and who have resided in the state for at least an additional five (5) years during the nine (9) years immediately preceding the application for assistance; and providing further, that no individual shall receive assistance under this program for the permanently and totally disabled during any period when he is receiving old age assistance, aid to the needy blind, or aid to dependent children, nor while he is residing permanently in any completely state-supported institution; and provided further, that not more than Twenty Dollars (\$20) a month out of state funds may be paid to any individual recipient; and provided further, that the amount paid out of state funds to any individual may never exceed the amount paid to that individual out of federal funds; and provided further, that the amount paid out of state funds for assistance payments shall not exceed Two Million, Five Hundred Thousand Dollars (\$2,500,000) per year.

The Legislature shall have the authority to accept from the Government of the United States such financial aid for individuals who are permanently and totally disabled as that Government may offer not inconsistent with the restrictions herein provided.

Amendment of Section 51-b, adopted Section 51-b-1 proposed by Senate Joint Nov. 13, 1956, and renumbering thereof as Senate Joint Resolution No. 7, Acts 1961, 57th Leg., p. 1303. For submission to the people on Nov. 6, 1962.

### Sec. 60. Workmen's compensation insurance for employees of counties and other political subdivisions

Sec. 60. The Legislature shall have the power to pass such laws as may be necessary to enable all counties and other political subdivisions of this State to provide Workman's Compensation Insurance, including the right to provide its own insurance risk, for all employees of the county or political subdivision as in its judgment is necessary or re-

## PROPOSED AMENDMENTS

quired; and the Legislature shall provide suitable laws for the administration of such insurance in the counties or political subdivisions of this State and for the payment of the costs, charges and premiums on such policies of insurance and the benefits to be paid thereunder.

Proposed by House Joint Resolution No. 25, Acts 1961, 57th Leg., p. 1312. For submission to the people on Nov. 6, 1962.

### Sec. 62. Continuity of State and Local Governmental Operations

The Legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for prompt and temporary succession to the powers and duties of public offices, except members of the Legislature, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices. Provided, however, that Article I of the Constitution of Texas, known as the "Bill of Rights" shall not be in any manner, affected, amended, impaired, suspended, repealed or suspended hereby.

Proposed by Senate Joint Resolution No. 13, Acts 1961, 57th Leg., p. 1307. For submission to the people on Nov. 6, 1962.

## ARTICLE VII

### EDUCATION

#### Sec. 3—b. Independent school districts within Dallas County; change in boundaries; taxes and bonds

Sec. 3—b. No tax for the maintenance of public free schools voted in any independent school district, the major portion of which is located in Dallas County, nor any bonds voted in any such district, but unissued, shall be abrogated, canceled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the

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greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued.

Proposed by Senate Joint Resolution No. 6, Acts 1961, 57th Leg., p. 1301. For submission to the people on Nov. 6, 1962.

## ARTICLE IX

### COUNTIES

#### Section 1—A. Counties bordering on Gulf of Mexico or tidewater limits thereof; regulation of motor vehicles on beaches

Sec. 1—A. The Legislature may authorize the governing body of any county bordering on the Gulf of Mexico or the tidewater limits thereof to regulate and restrict the speed, parking and travel of motor vehicles on beaches available to the public by virtue of public right and the littering of such beaches.

Nothing in this amendment shall increase the rights of any riparian or littoral landowner with regard to beaches available to the public by virtue of public right or submerged lands.

The Legislature may enact any laws not inconsistent with this Section which it may deem necessary to permit said counties to implement, enforce and administer the provisions contained herein.

Should the Legislature enact legislation in anticipation of the adoption of this amendment, such legislation shall not be invalid by reason of its anticipatory character.

Proposed by Senate Joint Resolution No. 19, Acts 1961, 57th Leg., p. 1308. For submission to the people on Nov. 6, 1962.

#### Sec. 9. Hospital districts; creation, operation, powers and duties

Sec. 9. The Legislature may by law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five

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cents (75¢) on the one hundred dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified property taxpaying electors thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district.

Provided, however, that no district shall be created except by act of the Legislature and then only after thirty (30) days' public notice to the district affected, and in no event may the Legislature provide for a district to be created without the affirmative vote of a majority of the taxpaying voters in the district concerned.

Proposed by House Joint Resolution No. 51, Acts 1961, 57th Leg., p. 1317. For submission to the people on Nov. 6, 1962.

### Sec. 10. Hospital districts; Brazoria county; creation; taxes

Sec. 10(a). The Legislature may authorize the creation of two (2) hospital districts in Brazoria County, one of which shall include all or part of the West Columbia, Brazoria, and Damon Independent School Districts and the other coterminous with the Sweeny Independent School District. The qualified electorate of the hospital districts may, by majority vote of each such hospital district, consolidate the Sweeny Hospital District into the Damon, West Columbia, and Brazoria Hospital District at any time subsequent to the organization of the separate hospital districts.

Such districts, if created, may be authorized to levy a tax not to exceed twenty-five cents (25¢) on the one hundred dollar valuation of taxable property within the districts, provided no tax may be levied until approved by a majority vote of the participating resident, qualified, property taxpaying voters who may have duly rendered their property for taxation. The maximum rate of tax may be changed at subsequent elections, provided existing obligations are not impaired, but in no event shall any change of rate exceed twenty-five cents (25¢) per one hundred dollar valuation.

The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to acquire, construct, maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the acquisition, construction, purchase, repair or renovation of improvements and initially equipping the same and such bonds shall be payable from said twenty-five cent tax.

(b) In addition to all other ad valorem taxes authorized under this Constitution and the laws of the State of Texas, Titus County is hereby authorized and empowered to levy, assess and collect a tax not exceeding twenty-five cents (25¢) on the one hundred dollar valuation of taxable property in said County in any one year for the purpose of paying the principal and interest on any bonds issued by said County for the purpose of constructing and equipping a home or homes for the aged persons in said County and to pay the maintenance and operation expenses thereof, provided said bonds and tax shall have been authorized at an election or

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elections held for that purpose by a majority of the qualified electors of Titus County, who own taxable property in said County and who have duly rendered the same for taxation, voting at said election. This provision shall be self-enacting and no enabling legislation hereunder shall be required. Any bond issued hereunder shall be issued in accordance with the General Laws except as herein otherwise provided.

Proposed by House Joint Resolution No. 70, Acts 1961, 57th Leg., p. 1318. For submission to the people on Nov. 6, 1962.

### Sec. 11. Hospital districts; Ochiltree, Castro, Hansford and Hopkins counties; creation; taxes

Sec. 11. The Legislature may by law authorize the creation of hospital districts in Ochiltree, Castro, Hansford and Hopkins Counties, each district to be coextensive with the limits of such county.

If any such district is created, it may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified property-taxpaying voters who have duly rendered their property for taxation. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollar (\$100) valuation.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cent<sup>1</sup> (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

Should the Legislature enact enabling laws in anticipation of the adoption of the amendment, such Acts shall not be invalid because of their anticipatory character.

<sup>1</sup> So in enrolled bill.

Proposed by Senate Joint Resolution No. 22, Acts 1961, 57th Leg., p. 1309. For submission to the people on Nov. 6, 1962.

## ARTICLE XVI

### GENERAL PROVISIONS

#### Sec. 33. Salary or compensation not paid agent, officer or appointee holding other office; exceptions; advisory committees

Sec. 33. The accounting officers of this state shall neither draw nor pay a warrant upon the Treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time

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any other office or position of honor, trust or profit, under this state or the United States, except as prescribed in this Constitution. Provided, that this restriction as to the drawing or paying of warrants upon the Treasury shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserve of the United States, nor to retired officers of the United States Army, Navy, Marine Corps, Air Force and Coast Guard, and retired warrant officers and retired enlisted men of the United States Army, Navy, Marine Corps, Air Force and Coast Guard. It is further provided, that state employees may serve in an advisory capacity or be appointed to serve as a consultant or on an advisory committee, or as a member of a Public School Board provided they are not members of the teaching profession, and may receive reimbursement of expenses, with other agencies of this state, or any political subdivision thereof, and of the Federal Government, with the approval of the administrative head of the state department or agency or the governing board of the institution in which such employee is employed and provided there is no conflict of interest.

Proposed by Senate Joint Resolution No. 12, Acts 1961, 57th Leg., p. 1306. For submission to the people on Nov. 6, 1962.

Sec. 62. State and county retirement, disability and death compensation funds

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(b) Each county and any other political subdivision of this State shall have the right and the Legislature may enact appropriate regulatory laws to provide for and administer a Retirement, Disability and Death Compensation Fund for its elected and appointive officers and employees; provided same is authorized by a majority vote of the qualified voters voting in such election of the county or other political subdivision. No person shall qualify for benefits unless he shall have served in such capacity for at least twelve (12) years, except for those persons otherwise qualified prior to the effective date of this Amendment. The amount contributed by the county to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the county and State.

Proposed by House Joint Resolution No. 36, Acts 1961, 57th Leg., p. 1314. For submission to the people on Nov. 6, 1962.

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# AMENDMENTS TO CONSTITUTION OF UNITED STATES

## AMENDMENT [XXIII]

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

Proposal and ratification. This amendment was proposed by the Eighty-sixth Congress on June 16, 1960 and was declared by the Administrator of General Services on Apr. 3, 1961, to have been ratified.

The amendment was ratified by the following States: Hawaii, June 23, 1960; Massachusetts, Aug. 22, 1960; New Jersey, Dec. 19, 1960; New York, Jan. 17, 1961; California, Jan. 19, 1961; Oregon, Jan. 27, 1961; Maryland, Jan. 30, 1961; Idaho, Jan. 31, 1961; Maine, Jan. 31, 1961; Minnesota, Jan. 31, 1961; New Mexico, Feb. 1, 1961; Nevada, Feb. 2, 1961; Montana, Feb. 6, 1961; Colorado, Feb. 8, 1961; Washington, Feb. 9, 1961; West Virginia, Feb. 9, 1961; Alaska, Feb. 10, 1961; Wyoming, Feb. 13, 1961; South Dakota, Feb. 14,

1961; Delaware, Feb. 20, 1961; Utah, Feb. 21, 1961; Wisconsin, Feb. 21, 1961; Pennsylvania, Feb. 28, 1961; Indiana, Mar. 3, 1961; North Dakota, Mar. 3, 1961; Tennessee, Mar. 6, 1961; Michigan, Mar. 8, 1961; Connecticut, Mar. 9, 1961; Arizona, Mar. 10, 1961; Illinois, Mar. 14, 1961; Nebraska, Mar. 15, 1961; Vermont, Mar. 15, 1961; Iowa, Mar. 16, 1961; Missouri, Mar. 20, 1961; Oklahoma, Mar. 21, 1961; Rhode Island, Mar. 22, 1961; Kansas, Mar. 29, 1961; Ohio, Mar. 29, 1961, and New Hampshire, Mar. 30, 1961.

Certification of validity. Publication of the certifying statement of the Administrator of General Services that the Amendment had become valid was made on Apr. 3, 1961, F.R.Doc. 61-3017, 26 F.R. 2808.



**TITLES AND CODES**  
**VERNON'S**  
**ANNOTATED TEXAS STATUTES**  
**AND**  
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VERNON'S  
REVISED CIVIL STATUTES  
OF THE  
STATE OF TEXAS

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TITLE 1—GENERAL PROVISIONS

Art.

1a. Emergency care; relief from liability for civil damages [New].

Art. 1. [5492] [3258] Common law

Relief from liability for civil damages for rendering emergency care, see art. 1a.

Art. 1a. Emergency care; relief from liability for civil damages

No person shall be liable in civil damages who administers emergency care in good faith at the scene of an emergency for acts performed during the emergency unless such acts are wilfully or wantonly negligent; provided that nothing herein shall apply to the administering of such care where the same is rendered for remuneration or with the expectation of remuneration or is rendered by any person or agent of a principal who was at the scene of the accident or emergency because he or his principal was soliciting business or seeking to perform some services for remuneration. Acts 1961, 57th Leg., p. 681, ch. 317, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Causing death, liability in damages, see Const. art. 16 § 26.

Cities, exemption from liability for personal injuries, see art. 1175(6).

Common law, adoption, see art. 1.

Exemplary damages for death from willful act, see arts. 4673, 8306, § 5.

Failure to stop and render aid, see Vernon's Ann.P.C. art. 1150.

Homicide, improper treatment of person injured, see Vernon's Ann.P.C. art. 1202.

Injuries resulting in death, see art. 4671 et seq.

Physicians and surgeons, injuries caused by malpractice, administration of noxious substances, see Vernon's Ann.P.C. art. 1200.

Workmen's compensation, damages for personal injuries, see art. 8306, § 1.

Title of Act:

An Act to relieve from liability for civil damages persons who render emergency care at the scene of an emergency; providing certain exception; and declaring an emergency. Acts 1961, 57th Leg., p. 681, ch. 317.

Art. 29. Legal Rate of Publication

Wherever any publication, as publication is defined in Section 1 hereof, is authorized or required by any law, general or special, to be inserted

in a newspaper, the legal rate which such newspaper shall charge for such publication shall be the lowest published rate of that newspaper for classified advertising.

All bills for publication shall be accompanied by a certificate of the publisher, under oath, certifying the number of publications and the dates thereof, together with the clipping of said publication from an issue of said newspaper, the rate charged, and certification that it is the lowest published classified rate. The Board of Control, or any district or county official charged with the publication of any notice required by law to be published, is hereby fully authorized and empowered to cancel any contract made by them, or either of them, in the event said Board or official may ascertain or determine that a higher rate is being charged by said newspaper than provided herein. All political advertising, except display advertising, shall be done at the same rate as legal notices, and under the same supervision and regulations. Political advertising shall include the announcements for public office.

This Act shall apply to all publications required by law, and it is specially provided that this Act shall apply to all citations or notices which are required to be published or may be published in delinquent tax suits and to notices of sale of real estate under execution, order of sale, or any other judicial sale provided for in Articles 3808, 4203, 7276, and 7342 of the Revised Civil Statutes of Texas, 1925. As amended Acts 1961, 57th Leg., p. 586, ch. 278, § 1.

Effective 90 days after May 29, 1961, date  
of adjournment.

**TITLE 2—ACCOUNTANTS—PUBLIC AND CERTIFIED**

**Art. 41a. Public Accountancy Act of 1945**

**Definitions**

Sec. 2. (a) The term "Board" when used in this Act means the "Texas State Board of Public Accountancy."

(b) The term "person" when used in this Act shall, unless the context indicates otherwise, mean individuals, partnerships and corporations.

(c) The term "state" when used herein includes any state, territory or insular possession of the United States, or the District of Columbia. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Acts not restricted**

Sec. 3. (a) Nothing contained in this Act shall be construed as applying to restrict any official act of any County Auditor, or other officer of the state, county, municipality, quasi-municipality, or other political subdivision thereof, or any officer of a Federal department or agency, or of their assistants, deputies or employees while working in their official capacities.

(b) Nothing contained in this Act shall prohibit any person not a certified public accountant or public accountant from serving as an employee of a certified public accountant or public accountant or partnership composed of certified public accountants and/or public accountants holding a permit to practice issued by the Texas State Board of Public Accountancy; provided, however, that such employee shall not issue any accounting or financial statements over his name.

(c) Nothing contained in this Act shall prohibit a certified public accountant or a registered public accountant of another state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; provided, that such temporary practice is conducted in conformity with the laws of Texas and the regulations and rules of professional conduct promulgated by the Board. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Reappointment of board member**

Sec. 4. (a) A Board member, who has served as a member for six (6) consecutive years, shall not be eligible for reappointment until a lapse of two (2) years shall have occurred between the end of the term of his last prior appointment and the beginning of the new term of a new appointment. Added Acts 1961, 51st Leg., p. 608, ch. 289, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

**Prohibition against practicing without permit**

Sec. 8. (a) No person shall assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under Section 12 or Section 13 of this or prior Acts, holds a permit issued under Section 9 of this Act which is not revoked or suspended (hereinafter referred to as a "live permit"), and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 of this Act; provided, however, that an accountant of another state or foreign country who has registered under the provisions of Section 14 of the Public Accountancy Act of 1945, and who holds a live permit issued under Section 9 of this Act, may use the title under which he is generally known in his state or country, followed by the name of the state or country from which he received his certificate, license or degree.

(b) No partnership shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of certified public accountants unless such partnership is registered as a partnership of certified public accountants under Section 17 of the Public Accountancy Act of 1945, holds a live permit issued under Section 9 of this Act and all of such partnership's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof.

(c) No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under Section 11 or Section 13 of the Public Accountancy Act of 1945, holds a live permit issued under Section 9 of this Act and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof, or unless such person has received a certificate as a certified public accountant under Section 12 or Section 13 of this or prior Acts, holds a live permit issued under Section 9 of this Act and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof.

(d) No partnership shall assume or use the title or designation "public accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership is composed of public accountants, unless such partnership is registered as a partnership of public accountants under Section 19 of the Public Accountancy Act of 1945, or as a partnership of certified public accountants under Section 17 of the Public Accountancy Act of 1945, and holds a live permit issued under Section 9 of this Act and all of such partnership's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof.

(e) No person shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations, "CA," "PA," "EA," "RA," or "LA," or similar abbreviations likely

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to be confused with "CPA"; provided, however, that only a person holding a live permit issued under Section 9 of this Act and all of whose offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof may hold himself out to the public as an "accountant" or "auditor" or combinations of said terms; and provided further, that a foreign accountant registered under Section 14 of the Public Accountancy Act of 1945, who holds a live permit issued under Section 9 of this Act and all of whose offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof, may use the title under which he is generally known in his state or country, followed by the name of the state or country from which he received his certificate, license or degree.

(f) No corporation shall assume or use the title or designation "certified public accountant," or "public accountant," nor shall any corporation assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "CPA," "PA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA." If a corporation was registered under Section 10 of the Public Accountancy Act of 1945, prior to November 1, 1945, and holds a live permit under Section 9 hereof, it may use the same designations applicable to certified public accountants or public accountants hereinabove set out.

(g) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business, with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement, or to any opinion on, report on or certificate to any accounting or financial statement, unless he has complied with the applicable provisions of this Act; provided, however, that the provisions of this Subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title or office which he holds in said organization, nor shall the provisions of this Subsection prohibit any act of a public official or public employee in the performance of his duties as such.

(h) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or in conjunction with the designation "and Company," or "and Co.," or a similar designation if, in any such case, there is in fact no bona fide partnership registered under Sections 17 or 19 of the Public Accountancy Act of 1945; provided that a partnership lawfully using such title or designation in conjunction with such names or designation on the effective date of this Act, may continue to do so if it otherwise complies with the provisions of this Act. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

#### Annual permits to practice

Sec. 9. Permits shall be issued by the Board to the following upon the payment of fees hereinafter specified:

(a) Holders of the certificate of 'Certified Public Accountant' issued under this or any prior Acts.

(b) Such persons as are registered with the Board under the provisions of Section 10 of this Act.

(c) Such persons as are registered with the Board under the provisions of Section 14 of the Public Accountancy Act of 1945.

There shall be paid to the secretary-treasurer of the Board by all persons referred to in Subsections (a), (b) and (c) hereof an annual permit fee not to exceed Ten Dollars (\$10.00). All permits shall expire on the 31st day of December of each year, but shall, annually, be renewed for a period of one (1) year, upon the payment of a fee of not more than Ten Dollars (\$10.00), the Board being hereby given the authority and duty to determine the amount of such renewal fee for each coming year on or before December 1 of each year, and to mail notices thereon each year by that date.

Failure of any permit holder to pay the annual permit renewal fee on or before January 31 of each year shall automatically cancel his permit. Any permit holder whose permit shall have been canceled because of failure to pay the annual permit renewal fee may secure reinstatement of his permit at any time within that calendar year upon payment of the delinquent fee together with a penalty of Five Dollars (\$5.00). After expiration of the calendar year for which the permit fee was not paid, no permit shall be reinstated except upon application and examination satisfactory to the Board. The Board shall have no authority to waive the collection of any fee or penalty. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 5.

Effective 90 days after May 29, 1961, date of adjournment.

#### Registration with the Board

Sec. 10. The following persons shall be registered with the Board for the practice of public accountancy in this state:

(a) All individuals and public accountants qualified or who may qualify under Section 11 of the Public Accountancy Act of 1945.

(b) Partnerships qualified under Sections 17 or 19 of the Public Accountancy Act of 1945, as amended. The name or designation under which any partnership may be registered shall contain the personal name or names of one or more individuals presently or previously members thereof, and shall not contain any descriptive words indicating character or grade of service offered.

(c) Corporations qualified under Section 21 of the Public Accountancy Act of 1945. Provided, however, that no corporation may hereafter be created for the purpose of engaging in the practice of public accountancy within this state after the effective date of this Act. No corporate charters or corporate permits shall be renewed one (1) year after the effective date of this Act.

(d) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or partnership of certified public accountants, or by a public accountant, or a partnership of public accountants, or by one registered under Section 14 shall be registered under this Act with the Board, but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal or a staff employee holding a permit issued by the Board which is in full force and effect; provided that the title or designation "certified public accountant" or the abbreviation "C.P.A." shall not be used in connection with such office unless such resident manager is the holder of a certificate as a certified public accountant and a permit issued by the Board,



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both of which are in full force and effect. Such resident manager may serve in such capacity only in one office at the same time. The Board shall by regulation prescribe the procedure to be followed in effecting such registrations.

All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration. The Board shall have power to examine such applications and may refuse registration to any applicant who is unable to meet the standards imposed by this Act. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 6.

Effective 90 days after May 29, 1961, date of adjournment.

#### Certification of Certified Public Accountants

Sec. 12. The certificate of a "Certified Public Accountant" shall be granted by the Board to any person:

(a) Who is a citizen of the United States or has duly declared his intention of becoming such citizen; and

(b) Who is a resident of the State of Texas, or has a place of business therein, or, as an employee, is regularly employed therein, and provided that any person who shall have qualified to take the examination for the certificate in this state, and who, while so qualified shall have received credit for all or any part thereof, shall remain qualified under this Subsection until he receives his certificate; and

(c) Who has attained the age of twenty-one (21) years; and

(d) Who is of good moral character; and

(e) Who meets the requirements of education and experience as hereinafter provided:

(1) During the three (3) year period immediately following the effective date of this Act the educational requirement shall be: (a) satisfactory completion of two (2) years of study at one (1) or more colleges or universities, recognized by the Board; or (b) graduation from a junior college, recognized by the Board, or such education as the Board determines to be substantially the equivalent thereof; and the experience requirements shall be four (4) years of accounting experience, satisfactory to the Board, as a certified public accountant in any state, or as a public accountant registered or entitled to register under Sections 11 or 13 hereof, or in public practice under the guidance of such a certified public accountant or public accountant, or in an activity comparable thereto, or in any combination of such types of experience, in work of a non-routine accounting nature, which continually requires independent thought and judgment on important accounting matters; or such education and experience requirements may be those set out in (2), (3), or (4) below:

(2) During the second three (3) year period following the effective date of this Act, the educational requirement shall be either (a) that specified in (1) above and, in addition, satisfactory completion of what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration; and the experience requirement shall be three (3) years of the experience described in (1) above; or (b) graduation from an accredited high school, plus two (2) years of study of accounting or related subjects in one (1) or more colleges or universities, recognized by the Board, plus six (6) years of experience under the supervision of a Certified Public Accountant in work described in (1) above, in which event such Certified Public Accountant or Certified Public Accountants, if the applicant has been employed by more than one (1), shall certify to the Board that the

applicant has, during such six (6) year period, had the experience described in (1) above.

(3) After the expiration of six (6) years from the effective date of this Act, the educational requirement shall be either (a) a baccalaureate degree conferred by a college or university recognized by the Board, with a major in accounting, or with a nonaccounting major, supplemented by what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration; and the experience requirement shall be two (2) years of the experience described in (1) above; or (b) graduation from an accredited high school, plus two (2) years of study of accounting or related subjects in one (1) or more colleges or universities, recognized by the Board, plus six (6) years of experience under the supervision of a Certified Public Accountant in work described in (1) above, in which event such Certified Public Accountant or Certified Public Accountants, if the applicant has been employed by more than one (1), shall certify to the Board that the applicant has, during such six (6) year period, had the experience described in (1) above.

(4) At any time after the effective date of this Act the experience requirement shall be only one (1) year of the experience described in (1) above for any candidate holding a Masters Degree with a major in accounting or business administration from a college or university recognized by the Board, or holding a professional degree in accounting designated other than a Masters Degree but judged by the Board to be equivalent to that degree and to be at an appropriate professional level, if he has satisfactorily completed such number of semester hours in accounting, business administration and economics, and such related subjects as the Board shall determine to be appropriate; and

(f) who shall have passed a written examination in theory of accounts, in accounting practice, in auditing, in commercial law as affecting public accounting, and in such other related subjects as the Board shall determine to be appropriate. A grade of at least seventy-five per cent (75%) on each subject shall be required as a passing grade.

Any candidate who meets the educational requirements under Subsections (1), (2), (3), or (4) of (e) above, and who is duly enrolled as an attorney in the Supreme Court of Texas and has complied with the provisions of the State Bar Act and is a member of the State Bar in good standing, shall be given credit for commercial law without taking the written examination on commercial law.

The Board may by written regulations provide for granting credit to a candidate for his satisfactory completion of a written examination at one sitting in any two (2) or more of the subjects specified in (f) above given by the licensing authority in any other state; provided, that when he took such examination in such other state he was not a resident of Texas, had no place of business in Texas, nor, as an employee, was he regularly employed in Texas. Such regulations shall include such requirements as the Board shall determine to be appropriate in order that any examination approved as a basis for any such credit, shall, in the judgment of the Board, be at least as thorough as that included in the most recent examination given by the Board at the time of the granting of such credit.

None of the educational requirements specified in (1), (2), or (3) of (e) above shall apply to a candidate who is registered as a public accountant under Section 11 of the Public Accountancy Act of 1945, as amended.

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A candidate who has met the educational requirements but has not met the experience requirements provided for herein, shall be eligible to take the examination in all subjects except accounting practice without waiting until he meets the experience requirements, or a candidate who has met the educational requirements as specified in (3) (a) of (e) above shall be eligible to take the entire examination without waiting until he meets the experience requirements, provided that in either case he also meets the requirements of (a), (b), and (d) above of this Section.

A candidate for the certificate of certified public accountant who has successfully completed the examination under (f) above, shall have no status as a certified public accountant, unless and until he has met all of the requirements, has the requisite experience, and has received notice of his certificate as a certified public accountant.

The holder of a certificate heretofore issued under the provisions of Chapter 122 of the Acts of the 34th Legislature, or under subsequent Acts, shall not be required to secure a new certificate as a certified public accountant under this Act.

The applicable educational and experience requirements under Subsections (1), (2) or (3) of (e) of this Section shall be those in effect on the date of his application for the examination or reexamination by which the candidate successfully completes his examination under (f) above. With reference to any candidate who has passed at least one (1) subject under any prior Act, the applicable educational and experience requirements shall be those in effect immediately prior to the effective date of this Act.

Any person who, at the effective date of this Act, has entered a program to meet the education and experience requirements of the Public Accountancy Act of 1945 as in force immediately prior to the effective date of the amendments by this Act, shall file with the Board within 180 days after the effective date of this Act, a written declaration thereof, and submit such proof thereof as the Board may require. After the filing of such declaration and proof, under rules and regulations prescribed by the Board, said person shall be allowed the time reasonably required to complete his program to meet the education and experience requirements in force immediately prior to the effective date of this Act, but not more than four (4) years after the effective date of this Act, and on completion of such requirements, if otherwise qualified to take the examination, he shall be permitted to make his application and take the examination under such education and experience requirements.

Every person who has met the requirements of (a), (b), (c), (d), (e), and (f) of this Section and is ready to receive his certificate as a "Certified Public Accountant," shall, before receiving such certificate, take an oath that he will support the Constitution of the United States and of this state, and the laws thereof, and will comply with the rules of professional conduct promulgated under the Public Accountancy Act of 1945 as amended. This oath shall be administered by a member of the Board or by such other person as may be authorized by law to administer oaths. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 7.

Effective 90 days after May 29, 1961, date of adjournment.

**Reciprocity**

Sec. 13. (a) The Board may in its discretion waive the examination of, and may issue a certificate as "Certified Public Accountant" to any person possessing the other qualifications mentioned in Section 12 of

this Act who is the holder of a certificate as Certified Public Accountant issued under the laws of any state or territory (or the equivalent thereof issued in any foreign country), provided the requirements for such certificate in the state or territory (or foreign country) which has granted it to the applicant were, in the opinion of the Board, at least equivalent to those required in this state at the time the applicant's original certificate was issued. The Board shall charge for the issuance of such a certificate as a "Certified Public Accountant," under this Section a fee of not more than Fifty Dollars (\$50.00).

(b) Any person holding a permit under the laws of any state or territory to practice public accountancy, if such state or territory, in the opinion of the Board, has standards equal to those required by this state, shall be granted a permit by the Board if such state or territory admits public accountants of this state to practice in such state or territory; provided, however, no such permit shall be granted by the Board unless such person had made application for a permit to practice public accountancy to the licensing board of his own state not later than November 1, 1947. For such permits as are authorized by this Section the Board shall charge the same annual permit fees and reinstatement fees as are charged all other persons to whom annual permits are issued by the Board. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 8.

Effective 90 days after May 29, 1961, date of adjournment.

#### Examinations; re-examinations, and fees therefor

Sec. 15. All examinations provided for under the Public Accountancy Act of 1945, as amended, shall be conducted by the Board. The examination for the certificate of "Certified Public Accountant" shall take place as often as the Board deems necessary, but not less frequently than once each year. The time and place of holding examinations shall be duly advertised for not less than three (3) days in three (3) daily newspapers published, one (1) in each of three (3) principal cities in Texas, beginning not less than thirty (30) days prior to the date of each examination.

A candidate, who fails, shall have the right to apply for an additional examination, subject to the satisfaction of the Board that he continues to meet requirements of (a), (b), and (d) of Section 12 of this Act, and the following additional requirements: (1) if a candidate fails to score a grade of fifty per cent (50%) on any subject in an examination, the Board shall refuse to admit him to write that subject in the next succeeding examination; and (2) if a candidate has made application to write the examination at a session and he fails to submit a paper on any subject for which he is eligible at that session, the Board shall score a grade of less than fifty per cent (50%) for the candidate in that subject. Except for the foregoing requirements, a candidate, who has taken the examination under this Act or any prior Act, shall have the right to any number of reexaminations. The additional requirements specified in (1) and (2) of this paragraph shall not apply to a candidate who is registered as a public accountant under Section 11 of the Public Accountancy Act of 1945, as amended.

Any candidate who, at the time of filing his application to take the examination, or reexamination, provided for herein, had, prior to the effective date of this Act, passed one (1) or more subjects under any prior Act, or who shall, after the effective date of this Act, pass in a single examination two (2) or more subjects, or who is registered as a public accountant under Section 11 of the Public Accountancy Act of 1945,

*For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes*

as amended, and who shall pass one (1) or more subjects after the effective date of this Act, shall have the right, subject to the approval of his application for reexamination under the provisions of the preceding paragraph, to be reexamined in the remaining subjects only, at subsequent examinations held by the Board, may receive credit for one (1) or more subjects in any subsequent examination, and when he shall have received credit for all subjects, he shall then be considered to have passed the examination.

The Board shall charge for the first examination of a candidate for certification as a "Certified Public Accountant" a fee of not more than Fifty Dollars (\$50.00), which shall be payable by the applicant at the time of making the initial application. For each subsequent examination, or reexamination, the fee shall not exceed for each subject for which he is eligible: Twenty Dollars (\$20.00) for accounting practice, and Ten Dollars (\$10.00) for each of theory of accounts, auditing and commercial law, which shall be payable by the applicant at the time of making the application for the subsequent examination or reexamination. Where the applicant fails to be present for the examination and shows to the Board satisfactory reason for such failure, the Board may, in its discretion, refund any fee so paid, and relieve the candidate of the penalty in the second paragraph of this Section relating to the grade of less than fifty per cent (50%).

All fees provided for herein shall be paid to the secretary-treasurer of the Board.

It is further provided, that any applicant who has failed any such examination or examinations shall have a right to demand a copy, certified by the Board, of the questions and the answers thereto made by him upon any such examination, with the grade clearly shown, together with a copy of solutions to such questions; and the Board shall forthwith comply with such demand by delivering by registered mail to such applicant a true copy of the questions and his answers thereto, certified by the Board, together with a copy of solutions to such questions, and the Board may charge such applicant a reasonable fee therefor; and such application by the candidate shall be made within six (6) months after the grades are mailed to said candidate, and not thereafter. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 9.

Effective 90 days after May 29, 1961, date of adjournment.

#### Use of Name "Certified Public Accountant"—abbreviations

Sec. 16. Any person who has received from the Board a certificate of Certified Public Accountant and holds a valid permit to practice, shall be styled and known as a "Certified Public Accountant" and may also use the abbreviation "C.P.A." As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 10.

Effective 90 days after May 29, 1961, date of adjournment.

#### Use of Name "Public Accountant"

Sec. 18. Any individual qualified under this Act to register with the Board for the practice of public accountancy and who has so registered, and who holds a valid permit for the practice of public accountancy, may be styled and known as a "public accountant." As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 11.

Effective 90 days after May 29, 1961, date of adjournment.

## Prohibited Abbreviations

Sec. 20. Repealed. Acts 1961, 57th Leg., p. 608, ch. 289, § 12. Eff. 90 days after May 29, 1961, date of adjournment.

## Revocation or Suspension of Certificate or Permit

Sec. 22. (a) After notice and hearing as provided in Section 23 of this Act, the Board may revoke or may suspend for a period not to exceed five (5) years, any certificate issued under Sections 12 or 13 of this or any prior Acts, or any registration granted under Sections 10 or 14 of this or any prior Acts, or may revoke, suspend or refuse to renew any permit issued under Sections 9 or 13 of this Act, or may reprimand the holder of any such permit for any one or more of the following causes:

(1) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under this or any prior Acts, or in obtaining a permit to practice public accounting under this Act.

(2) Dishonesty, fraud or gross negligence in the practice of public accounting.

(3) Violation of any of the provisions of Section 8 of the Public Accountancy Act of 1945, as amended by this Act.

(4) Violation of a rule of professional conduct promulgated by the Board under the authority granted by law.

(5) Conviction of a felony under the laws of any state or of the United States.

(6) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States.

(7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state, for any cause other than failure to pay an annual registration fee in such other states.

(8) Suspension or revocation of the right to practice before any state or federal agency, for a cause which, in the opinion of the Board, warrants its action.

(9) Failure to become a citizen of the United States within six (6) years by any person not a citizen of the United States when he or she received a certificate as certified public accountant or registered as a public accountant under this or any prior Acts, said six (6) year period to begin on the effective date of this Act or the date of granting a certificate or an initial permit, whichever date occurs last.

(10) Failure of a certificate holder or registrant to obtain an annual permit under Section 9 of the Public Accountancy Act of 1945, as herein amended, within either (a) three (3) years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant, or (b) three (3) years from the date upon which the certificate holder or registrant was granted his certificate or registration, if no permit was ever issued to him, unless such failure shall be excused by the Board pursuant to the provisions of said Section 9.

(11) Conduct discreditable to the public accounting profession.

(b) After notice and hearing as provided in Section 23 of the Public Accountancy Act of 1945, as herein amended, the Board shall revoke the registration and permit to practice of a partnership, if at any time it does not have all the qualifications prescribed by the Section of this Act under which it qualified for registration.

After notice and hearing as provided in said Section 23, the Board may revoke or suspend the registration of a partnership or may revoke,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

suspend or refuse to renew its permit under Section 9 to practice or may reprimand the holder of any such permit for any of the causes enumerated in part (a) of this Section, or for any of the following additional causes:

(1) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner.

(2) The cancellation, revocation, suspension or refusal to renew the authority of the partnership or any partner thereof to practice public accounting in any other state for any cause other than failure to pay annual registration fee in such other state. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 13.

Effective 90 days after May 29, 1961, date of adjournment.

#### Procedure and Review

Sec. 23. (a) The Board may initiate proceedings under this Act either on its own motion or on the complaint of any person.

(b) A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the Board on such charges shall be served on the accused, not less than twenty (20) days prior to the date of said hearing, either personally or by mailing a copy thereof by registered mail to the address of the accused last known to the Board.

(c) At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence as may be produced against him. The accused shall be entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(d) The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing under this Act. In case of disobedience to a subpoena the Board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(e) If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing the Board may proceed to hear evidence against him and may enter such order as shall be justified by the evidence and a copy of such order shall be mailed by registered mail to the last known address of the accused. The Board is hereby authorized to grant continuances upon written request and, upon a showing of good cause for failure to appear at such hearing, set out in writing, signed by the accused and filed with the Board, the Board may reopen said proceedings and permit the accused to submit evidence in his behalf, provided further, that said written request to reopen is filed with the Board within twenty (20) days after a copy of said order has been mailed to the accused.

(f) A stenographic record of the hearings shall be kept and, if deemed necessary by the Board, a transcript thereof shall be prepared and filed with the Board.

(g) At all hearings the Attorney General of this state, or one of his assistants, or such other legal counsel as may be employed, shall appear and represent the Board.

(h) The decision of the Board shall be by majority vote thereof.

(i) Any person, firm or corporation adversely affected by any order, rule or decision of the Board may file a petition in the District Court of the county of his residence in Texas, or by a nonresident of Texas in the District Court of Travis County, Texas, setting forth the particular objection to such decision, rule or order, against the Texas State Board of Public Accountancy as defendant, such petition to be filed within thirty (30) days after the date a copy of such order is sent by registered mail to such person, firm or corporation. Service of citation may be had by leaving a copy thereof at the office of the Board in Austin, Travis County, Texas. The case shall be tried as other civil cases. The cause shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to said action may appeal to the appellate court having jurisdiction of said cause. The Board shall not be required to give any appeal bond in any cause arising hereunder. Neither the Texas State Board of Public Accountancy nor any member thereof shall be liable to any person, firm or corporation charged or investigated by said Board, for any damages incident to such investigation, or any complaint, charge, prosecution, proceeding or trial.

(j) Upon application in writing and after hearing pursuant to notice, the Board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, or may permit the reregistration of anyone whose registration has been revoked, or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 14.

Effective 90 days after May 29, 1961, date of adjournment.

#### Penalties

Sec. 24. (a) Whenever in the judgment of the Board any person who is not the holder of a valid and existing permit to practice public accountancy in this state has engaged in any act or practices which constitute the practice of public accountancy within this state, the Board may apply to the District Court of the county in which such person resides or has an office, for an injunction enjoining such person from engaging in the practice of public accountancy, and in such cases the Board shall not be required to give bond as a condition precedent to the issuance of such injunctive relief.

(b) Any person who violates any provision of the Public Accountancy Act of 1945, as amended, or of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than Fifty Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00) or by imprisonment in county jail for not less than ten (10) days and not more than one (1) year or by both such fine and imprisonment, and each violation shall constitute a separate offense. Any complaints filed under the provisions of this Section shall be filed in the county where the offense occurred. As amended Acts 1961, 57th Leg., p. 608, ch. 289, § 15.

Effective 90 days after May 29, 1961, date of adjournment.



## TITLE 3—ADOPTION

## Art. 46a. Proceedings for adoption, hearing and rights of adopted child

## Consent of parents and child; exceptions

Sec. 6. Except as otherwise provided in this Section, no adoption shall be permitted except with the written consent of the living parents of the child; provided, however, that if a living parent or parents shall voluntarily abandon and desert a child sought to be adopted, for a period of two (2) years, and shall have left such child to the care, custody, control and management of other persons, or if such parent or parents shall have not contributed substantially to the support of such child during such period of two (2) years commensurate with his financial ability, then, in either event, it shall not be necessary to obtain the written consent of the living parent or parents in such default, and in such cases adoption shall be permitted on the written consent of the Judge of the Juvenile Court of the county of such child's residence; or if there be no Juvenile Court, then on the written consent of the Judge of the County Court of the county of such child's residence.

In a case of a child fourteen (14) years of age or over, the consent of such child also shall be required and must be given in writing in the presence of the court.

Consent shall not be required of parents whose parental rights have been terminated by order of the Juvenile Court or other court of competent jurisdiction; provided, however, that in such cases adoption shall be permitted only upon the written order of the court terminating such parental rights.

In case of a child not born in lawful wedlock the consent of the father shall not be necessary, and the consent of the natural mother, regardless of her age, shall suffice.

In the case of a child placed by its parents in a child-placing agency or institution licensed by the State Department of Public Welfare to place children for adoption, it shall be sufficient for the living parents to consent in writing that such agency or institution place such child for adoption, and no further consent shall be required of such living parent.

In the case of any consent by the natural parents as herein required to the adoption of a minor child, regardless of whether or not said child was born in lawful wedlock, such consent shall be sufficient if given in writing after the birth of said child and duly acknowledged, giving the name, date and place of birth of said child, and shall agree to permanently surrender the care, custody, and parental authority of and over said child, and consent to its adoption upon judgment of any court of competent jurisdiction without the necessity of reciting therein the names of the parents by adoption. As amended Acts 1961, 57th Leg., p. 737, ch. 344, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 3A—AERONAUTICS

Art.

46c—8. Hearings, Judicial Review, and  
Court Aid [New].

## Art. 46c—1. Definitions

(a) General. For the purpose of the laws of this state relating to aeronautics, the following words, terms, and phrases shall have the meaning herein given, unless otherwise specifically defined, or unless another intention clearly appears, or unless the context otherwise requires. The singular shall include the plural and the plural the singular. The ordinary meaning of such words, terms, and phrases is presumed to be consistent with the meaning of such words, terms, and phrases as defined by the relevant Statutes and regulations of the United States.

(b) "Aeronautics" means the art and science of flight of aircraft of all types; aviation; the operation, navigation, maintenance, construction and repair of aircraft and all component parts thereof and includes air navigation aids, such as lighting, marking, radio, ground to aircraft, aircraft to ground, aircraft to aircraft, and related communication, navigation and piloting and air crew facilities, and also includes airports and airstrips, and the design, construction, repair or maintenance of all or any part thereof, and improvements thereon, and the dissemination of information and instruction pertaining to all of the foregoing.

(c) "Air Navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within the state.

(d) "Aircraft" means any contrivance now known or hereafter invented, used or designed for flight in the air, and

(1) "Public Aircraft" means any aircraft exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes, and

(2) "Civil Aircraft" means any aircraft other than a public aircraft.

(e) "Airport" means any area of land or water which is designed for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights of way, whether heretofore or hereafter established.

(f) "Commission" means the Texas Aeronautics Commission; "State" or "this State" means the State of Texas; and "Director" means the Director of Aeronautics of this state.

(g) "Municipality" means any incorporated city, village or town of this state and any county or political subdivision or district in this state which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips and aeronautical navigation facilities.

(h) "Navigable Air Space" means air space above the minimum altitudes of flight prescribed by the laws of the United States or of this state.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(i) "Operation of Aircraft" or "operate aircraft" means flight and use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft.

(j) "Owner" means: (1) a person holding the legal title to the aircraft, or (2) is a lessee thereof, or (3) is a lessee of an aircraft with an option to purchase the same, or (4) is a conditional vendee, or (5) is a trustee under a trust receipt, or (6) is a person holding or given the right to operate an aircraft subject to security interest, or (7) is a person who, by force, or devious means, assumes or gains command or control thereover, and the person who comes within the particular category above mentioned, and causes the operation of an aircraft, shall be legally responsible therefor.

(k) "Person" means any individual, firm, partnership, corporation, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or the authorized representative thereof. As amended Acts 1961, 57th Leg., p. 850, ch. 379, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Section 8 of the 1961 amendatory act provided:

"Sec. 8. Severability and Numbering of Sections. Since the Act in question is codified as Article 46c under Vernon's Texas Civil Statutes, and is so referred to and understood by most lawyers and laymen, for convenience the amendments contained herein are denominated Article 46c, with a section number following, and where, in this amendment, no reference is made to a section number under existing Article 46c, as so codified, the same shall remain in effect. If any Section, subdivision, paragraph, sentence, clause, phrase or word of this Act is held to be unconstitutional the remaining portions shall, nevertheless, be valid, and it is declared to be the legisla-

tive intent that such remaining portions would have been included in this Act even though the unconstitutional portion had been omitted, and provided further, if any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the provisions or applications of this Act which can be given effect without the invalid provisions or applications, and accordingly the provisions of this Act are declared to be severable."

Acts 1961, 57th Leg., p. 850, ch. 379, amending several articles in this sequence, repealing former article 46c—7, renumbering former article 46c—8, and adding present article 46c—8, provides in section 9 that "This Act may be cited as the 'Texas Aeronautics Commission Act' "

### Art. 46c—3. Aeronautics Commission, Reorganization, Membership

The Texas Aeronautics Commission, created in 1945, consisting of three (3) Commissioners shall hereafter consist of six (6) members though the present three (3) Commissioners shall continue to serve the balance of their terms. The three (3) new Commissioners shall be appointed by the Governor and confirmed by the Senate. The Governor shall appoint successors for the three (3) existing Commissioners (who may be reappointed) at the expiration of their present terms, subject to confirmation by the Senate. The Commissioners shall continue in office, as designated by the Governor at the time of appointment, through the last day of the second, fourth, and sixth calendar years respectively, following the passage of this Act.<sup>1</sup> The successors of the members initially appointed shall be appointed for terms of six (6) years in the same manner as the members originally appointed under this Act, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and the qualification of his successor. All members of the Commission shall be citizens and bone fide residents of the state. Each member shall be reimbursed for actual and necessary expenses incurred by him in the performance of his duties. Each member may be

paid the sum of Ten Dollars (\$10.00) per diem, or part thereof, spent in attending to his duties as Commissioner, but no member shall receive more than the sum of Six Hundred Dollars (\$600.00) in any one year as per diem.

To qualify for appointment to the Commission by the Governor, an appointee must have the following minimum qualifications in addition to those set out herein:

(a) Bona fide continuous residence in the state for the ten (10) years immediately previous.

(b) Ten (10) years of successful experience in business, professional or governmental activities.

(c) Five (5) years experience in aeronautical activities, including either general aviation, agricultural aviation, airport management, or air carrier operation. As amended Acts 1961, 57th Leg., p. 850, ch. 379, § 2.

<sup>1</sup> Articles 46c—1 to 46c—8.

Effective 90 days after May 29, 1961, date of adjournment.

#### **Art. 46c—4. Organization, Meetings, Reports**

The Commission shall adopt a seal, and make rules and regulations for its administration, not inconsistent with this Act,<sup>1</sup> as hereby amended, as in its judgment it may deem advisable or necessary, and may from time to time amend such rules and regulations. It shall elect from among its members a chairman, a vice-chairman, and a secretary, to serve for one (1) year and annually thereafter shall elect such officers all to serve until their successors are appointed and qualified. It shall fix the date and place for its regular meetings. Four (4) members shall constitute a quorum, and except as hereafter provided, no action shall be taken by less than a majority of the Commission. Special meetings may be called as provided by its rules and regulations. All regular and special Commission meetings shall be open to the public. Not later than December 1 each year, it shall report in writing to the Governor detailed and itemized statements of all revenues and of all expenditures made by or in behalf of the Commission, and shall furnish such other information as it may deem necessary or useful or which may be requested by the Governor. The fiscal year of the Commission shall conform to the fiscal year of the state. As amended Acts 1961, 57th Leg., p. 850, ch. 379, § 3.

<sup>1</sup> Articles 46c—1 to 46c—8.

Effective 90 days after May 29, 1961, date of adjournment.

#### **Art. 46c—6. Commission Powers and Duties**

Subdivision 1. General. The Commission, and its Director acting under its authority, is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage, aid and assist in the establishment of airports and airstrips and air navigational facilities in this state, and, as to lands, or portions thereof, or navigational aids or facilities donated or given to the state, or to the Texas Aeronautics Commission to be held by it in trust for the state, the Texas Aeronautics Commission may control, administer, and have jurisdiction thereover, and may lease the same on the terms hereafter provided. The Commission and its Director may cooperate with and assist the United States, municipalities or other governmental subdivisions of this state, or persons engaged in aeronautics, or in the development of aeronautics, and may endeavor to coordinate the aeronautical activities

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of such others, and, municipalities and governmental subdivisions are authorized to cooperate with the Commission in the development of aeronautics and aeronautical navigational facilities or aids in this state.

Subdivision 2. Authority to Contract. The Commission may enter into contracts which it deems necessary or advisable in conformity with and in the execution of the powers granted it by this Act, as amended.<sup>1</sup> However, except as to moneys received by gift, the Commission shall have no power to enter into any contract or agreement binding on the State of Texas for the payment of any moneys which have not been authorized by appropriation of the Legislature from the general revenues or from the Texas Aeronautics Commission Fund. All contracts entered into by the Commission shall be submitted to the Attorney General for the approval as to form. The Commission shall not enter into any contract binding the State of Texas in excess of the power granted in this Act.

Subdivision 3. Scheduled Intrastate Carriers. For the public convenience and necessity, the Commission is granted the right, power and authority to exercise economic and safety regulations over only scheduled intrastate carriers not holding certificates of convenience and necessity from the Civil Aeronautics Board under the Federal Aviation Act of 1958, as now or hereafter amended. In this connection the Commission shall promulgate both economic and safety regulations pertaining to such carriers. As to the economic regulations promulgated, the Commission shall take into account the financial responsibility of the carrier, the public convenience and necessity for the proposed service, routes, proposed rates or charges, the effect on existing carriers, and any other factors bearing a relation thereto and pertaining to the public interest and necessity. The Commission shall be vested with a broad discretion in promulgating such regulations, and no intrastate air carrier shall operate within the State of Texas unless and until it has met the standards prescribed, and has been issued a certificate to do so by the Commission, and such certificate shall remain in effect only for the period of time prescribed by the Commission, but shall be subject to revocation, or suspension, with notice, for violation of the Commission's rules or regulations, or the safety rules or regulations prescribed by this Act or by the Commission or by the laws of the United States, or any regulation prescribed by any agency of the United States pursuant to existing laws of the United States, or those hereafter enacted. Such certificate so revoked or suspended may be reinstated upon order of the Texas Aeronautics Commission on its own motion, or after a hearing upon application of the violator, and based on a determination by the Commission that such reinstatement would be in the public interest. Any applicant for an intrastate certificate of public convenience and necessity shall file a signed, verified original and six (6) conformed copies of an application therefor and shall transmit the same by certified mail to the Commission's headquarters, Austin, Travis County, Texas, addressed to the Director. Such application shall set forth any pertinent facts or data required under this Act, or required by the rules, regulations and orders of the Commission. Copies of such application shall be contemporaneously transmitted to the Civil Aeronautics Board, the Federal Aviation Agency, (or its or their successors), and to any air carrier which is serving, or which has applied for permission to serve, the same, or substantially the same routes. After receipt of such application the Commission shall set a date for hearing which may be conducted by the Commission, or at its direction, by the Director, or any other staff member of the Commission, but the final determination shall be made by the Commission and shall be evidenced by a final written order granting or denying such certificate in whole or in part.

Any interested party, affected by the Commission's final order to the state courts shall be entitled to a trial de novo on all facts and circumstances involved in such matter. Nothing in this Act shall apply to or be construed or held to apply to, directly or indirectly, any commercial airline, or employees thereof, operating under the Federal Aviation Act of 1958, as now or hereafter amended,<sup>1</sup> and under current certificates of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America, or any other governmental agency successor thereto, pursuant to the provisions of said Federal Aviation Act of 1958, as now or hereafter amended.

Subdivision 4. Co-operation with The United States. The Commission shall work with the agencies of the United States in enforcing the Statutes, directives, rules and regulations of the United States. It is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of this Act or of Federal Statutes. It is authorized to receive reports of penalties and other data from agencies of the United States and other states, and when necessary, to enter into agreements, approved by the Attorney General of Texas as to form, with the United States and the agencies of other states governing the delivery, receipt, exchange and use of reports and data. The Commission may make such reports, with or without request therefor, to any officer of the state or of a municipality authorized by the Commission or by the United States to enforce the aeronautics laws, but such reports shall not constitute evidence of any violation nor shall the same be received as evidence by any court.

Subdivision 5. Aircraft Operation. Aircraft shall be operated in and over the state in a safe manner. Operation shall be deemed safe if conducted in compliance with the United States laws and regulations governing air traffic and aeronautical operation, now in existence or hereafter enacted.

Subdivision 6. Airports and Navigation Aids, Gifts, Leases. To develop aeronautics for the common good, benefit and safety of the citizens of Texas, and to provide for catastrophe, disaster, or state or national emergency, the state, or the Texas Aeronautics Commission on behalf of the state, is granted the right, under its police power, to accept gifts or donations of all or any parts of lands on, adjacent to, or utilizable as, airports or airstrips, or utilizable as a navigational aid, in the judgment of the Texas Aeronautics Commission, from the United States or any agency thereof or from any governmental, municipal, or other political subdivision of this state, or from any other person, firm, association, group, or corporation. The same shall be administered by the Texas Aeronautics Commission and shall be and remain under its control and jurisdiction. The Texas Aeronautics Commission is hereby granted the right to utilize such portion of the Texas Aeronautics Commission Fund, or other moneys appropriated to it by the Legislature, to construct improvements, facilities or navigational aids thereon as the Commission shall deem advisable or necessary. The Commission is granted the right to rent or lease such lands and improvements to any governmental or municipal agency or subdivision, or to any other person, firm, association, group, or corporation, provided any such lease so executed by the Commission shall be for a term not to exceed twenty (20) years, and provided further, the Texas Aeronautics Commission shall determine, after investigation, and reduce its findings to writing in a book or books to be maintained in the offices of the Texas Aeronautics Commission for that purpose: (1) that the lease is desirable or essential for the purposes above stated; (2) that the lessee is finan-

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cially responsible; and (3) that the amount of monthly or periodic rental payments shall be sufficient to amortize the amount it has expended thereon for improvements within the term of the lease. Any such lease, before the same shall become effective, shall be submitted to, and approved by, the Attorney General of Texas as to form. Any such lease shall provide that the lessee shall maintain the land, premises and improvements placed thereon by the Texas Aeronautics Commission in accordance with the standards prescribed by the Texas Aeronautics Commission and shall contain a provision that the lease shall immediately terminate and that the lessee shall surrender the premises to the Texas Aeronautics Commission without liability, and without court action, in the event of violation of any of the provisions of the lease, or any rule, regulation or order of the Texas Aeronautics Commission pertaining thereto; and provided further, the Texas Aeronautics Commission shall have the right to utilize the same, or any part thereof, for itself or others, without liability or cost, in time of national or state disaster, emergency, or catastrophe, as determined by either the Governor of Texas or the Texas Aeronautics Commission.

Independently and additionally, the Commission shall be authorized to accept any grant, payment, or gift of moneys, funds or property made to it by any person, individual, firm, association, corporation, municipality, county, or other political subdivision of the state, or from the United States, or any department or agency thereof, as to which the donor has prescribed a particular use for one or more aeronautical purposes. The Commission shall utilize any such grant of property in accordance with the terms of the grant, and as to any such payment, or gift of funds or moneys, the Commission shall (1) deposit the same in any one or more state or national banks approved by the State Depository Board as a depository of the public funds of Texas, and shall (2) utilize such moneys for the purpose or purposes prescribed by the donor. A record shall be maintained in the Commission's offices of such properties and funds. Such funds shall be expended only upon general or special order of the Commission, and all checks shall be signed by the Director and countersigned by the Chairman of the Commission, or some other Commissioner designated by a majority of the Commission to so countersign. Reports of any such expenditures shall be made at the end of each fiscal year to the Comptroller of Public Accounts of the State of Texas.

Subdivision 7. Investigations, Hearings (General). The Commission shall have the power to conduct and hold investigations, inquiries, and hearings concerning matters covered by the provisions of this Act and the rules, regulations and orders of the Commission, unless specifically provided otherwise herein. Hearings shall be open to the public. Each member of the Commission, the Director and every officer or employee of the Commission designated by it to hold an inquiry, investigation or hearing, shall have the power to administer oaths, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books and documents. Each subpoenaed witness who shall appear at a designated place outside the county of his residence shall receive for his attendance Five Dollars (\$5) per day and six cents (6¢) per mile traveled by the nearest practicable route in going to and returning from the place so designated, which shall be ordered paid, on the presentation of proper vouchers, sworn to by such witness and approved by the Commission or Chairman thereof, provided, no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested or involved in the investigation or hearing on account of which he is summoned. Any witness entitled to be paid shall be paid out of any funds so appropriated by the Legislature, or out of the

Texas Aeronautics Commission Fund. In the case of the failure of any person to comply with any subpoena or order issued under the authority of this Section, the Commission shall notify the Attorney General of Texas who may bring suit in the name of the state in any district court of Travis County, Texas. The court, if it determines such non-compliance was not justified shall thereupon order such person to comply with the requirements of the subpoena or order, and failure to obey the order of the court may be punished by the court as a contempt thereof.

Subdivision 8. Education, Publications. The Commission may organize and administer a program of aeronautical education in the schools and colleges of the state and for the general public and may prepare and conduct flight clinics for airmen. The Commission may issue such aeronautical publications as may be required in the public interest.

Subdivision 9. Technical Services. In the interest of public safety and welfare, the Commission may, insofar as is reasonably possible, make available its engineering and technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports, air navigation facilities or other aeronautical activities. As amended Acts 1961, 57th Leg., p. 850, ch. 379, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

<sup>1</sup> 49 U.S.C.A. § 1301 et seq.

**Art. 46c—7. Director of Aeronautics**

Subdivision 1. Appointment, Qualifications, Compensation. A Director of Aeronautics shall be appointed by the Commission, who shall serve for an indefinite term at the pleasure of the Commission. He shall be appointed with due regard to his fitness, by aeronautical training and by knowledge of aeronautics, and a minimum of five (5) years recent practical experience in aeronautics, for the efficient dispatch of the powers and duties vested in and imposed upon him by this Act.<sup>1</sup> He shall devote his entire time to the duties of his office as required and prescribed by this Act and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest in or any stock in or bonds of any civil aeronautics enterprise. He shall receive such compensation as may be provided in the biennial departmental appropriation bill and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

Subdivision 2. Powers and Duties. The Director shall be the executive officer of the Commission and under its supervision shall administer the provisions of this Act (and the rules, regulations, and orders established thereunder) and all other laws of the state relative to aeronautics. He shall attend all meetings of the Commission, but shall not have the power to vote. He shall, subject to the approval of the Commission, appoint such experts, field and office assistants, clerks, and other employees as may be required and authorized for the proper discharge of the functions of the Commission. He shall be in charge of the offices of the Commission and responsible to the Commission for the preparation of reports and collection and dissemination of data and other public information relating to aeronautics. At the direction of the Commission he shall, together with the chairman of the Commission, execute all contracts entered into by the Commission which are legally authorized.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

and for which funds are provided by this Act, as amended, or in any appropriation Act.

Subdivision 3. Delegation of Powers. In time of national emergency if the Director shall be unable to communicate with the members of the Commission he shall so report to the Governor, or to the Governor's successor, and until the Commission or a majority thereof, can be convened, discharge all of the duties and responsibilities of the Commission. As amended Acts 1961, 57th Leg., p. 850, ch. 379, § 6.

Effective 90 days after May 29, 1961, date of adjournment. Present article 46c—7, relating to the director of aeronautics, was renumbered from article 46c—8.

Former article 46c—7, relating to federal aid, was repealed by Acts 1961, 57th Leg., p. 850, ch. 379, § 5.

<sup>1</sup> Articles 46c—1 to 46c—8.

#### Art. 46c—8. Hearings, Judicial Review, and Court Aid

The Commission is authorized to enforce the provision of this Act,<sup>1</sup> by revocation or suspension of any lease or permit, in the event of violation of this Act, the Commission shall notify the Attorney General of Texas thereof, who is authorized to enforce the same by bringing a suit in any of the district courts of the county of the residence of the defendant in such action, and any such court may enforce the same by injunction or other appropriate legal process. Acts 1945, 49th Leg., p. 580, ch. 344, § 8, added Acts 1961, 57th Leg., p. 850, ch. 379, § 7.

<sup>1</sup> Articles 46c—1 to 46c—8.

Effective 90 days after May 29, 1961, date of adjournment. Former article 46c—8, relating to the director of aeronautics, has been renumbered as article 46c—7.

#### Art. 46e—3. Power to adopt airport zoning regulations

(2) Where an airport is owned or controlled by a political subdivision or where an airport owned or operated by a defense agency of the Federal government or the State of Texas is located within the territorial limits of a political subdivision and any airport hazard area appertaining to such airport is located outside the territorial limits of said political subdivision, the political subdivision owning or controlling the airport or the political subdivision within whose territorial limits the airport owned or operated by a defense agency of the Federal government or the State of Texas is situated and the political subdivision within which the airport hazard area is located may create, by ordinance or resolution duly adopted, a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by Subsection (1) in the political subdivision within which such area is located. Each such joint board shall have as members two (2) representatives appointed by each political subdivision participating in its creation and in addition a chairman elected by a majority of the members so appointed. As amended Acts 1961, 57th Leg., p. 689, ch. 323, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 4—AGRICULTURE AND HORTICULTURE

## CHAPTER TWO—STATE SEED AND PLANT BOARD

## Art. 57. State Seed and Plant Board

The administration of the licensing provisions of Title 4, Chapter 2 of the Revised Civil Statutes and of Chapter 93, Acts of the 41st Legislature, First Called Session, 1929 (codified as Article 67a, Vernon's Texas Revised Civil Statutes and Article 1555a, Vernon's Texas Penal Code) shall be vested in a Board to be known as the State Seed and Plant Board, consisting of six (6) members to be appointed by the Governor, with the advice and consent of the Senate. One (1) member shall be from the Department of Genetics of the Agricultural and Mechanical College of Texas; one (1) member shall be from the Department of Agronomy of Texas Technological College; one (1) member shall be a Texas Registered or Certified seed producer; one (1) member shall be the Chief of the Division of Seeds of the Texas Department of Agriculture; one (1) member shall be a person actively engaged in the seed trade, selling Texas registered or certified seed; and one (1) member shall be a person actively engaged in farming but not engaged in the seed trade nor registered or certified seed production. Persons appointed from the State Colleges and from the State Department of Agriculture shall be deemed to have been given additional ex officio duties by their appointment to membership on the Board. In the event an appointee severs his employment with the department or division from which he was appointed or fails to retain his active business or professional affiliation as a registered or certified seed producer or in the seed trade, his membership on the Board shall automatically terminate and the vacancy shall be filled as hereinafter provided. Members of the Board shall hold office for a term of two (2) years and until their successors are appointed and have qualified, except that in the initial appointment the member engaged in farming shall serve for a term expiring October 6, 1962, and thereafter the term shall be for two (2) years. The terms of office of members of the Board serving as of the effective date of this amendment shall be unaffected thereby. In the event of a vacancy caused by death, resignation, inability or ineligibility to act, or any other cause, the Governor shall appoint a qualified person to complete the unexpired term. The Board shall elect annually one (1) of its members as Chairman, one (1) as Vice-Chairman, and one (1) as Secretary. The Board shall meet at such times and places as the Chairman may order. All applicants for license as a registered or certified seed grower shall furnish such information as the Board may require and shall appear in person before the Board if the Board requests it. The Board shall approve and issue licenses for registered and certified seed growers, promulgate rules and regulations governing the producing of foundation, registered and certified seeds, and prescribe the qualifications and approve appointments of inspectors who may be employed under this Law. The Board may, from time to time, appoint persons to act in an advisory capacity on technical matters, but such appointees shall not have a vote as Board members. As amended Acts 1959, 56th Leg., p. 377, ch. 180, § 1; Acts 1961, 57th Leg., p. 62, ch. 38, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**CHAPTER FIVE—COMMERCIAL FERTILIZERS**

Art.  
 108a. Texas Commercial Fertilizer Control  
 Act of 1961 [New].

Arts. 94 to 108. Repealed. Acts 1961, 57th Leg., ch. 37, p. 54, § 16.  
 Effective Sept. 1, 1961

Subject matter is now covered by art.  
 108a.

Art. 108a. Texas Commercial Fertilizer Control Act of 1961

**Short title**

Section 1. This Act shall be known and may be cited as the "Texas Commercial Fertilizer Control Act of 1961."

**Definitions**

Sec. 2. The words and phrases as used in and applicable to this Act, unless a different meaning is plainly required by the context, shall have the following meaning:

(1) The term "Director" means the person appointed by the Board of Directors of the Agricultural and Mechanical College of Texas for the purpose of administering the provisions of this Act, and includes his duly authorized representatives.

(2) The term "person" means an individual of either sex, a firm, broker, jobber, partnership, corporation, company, legal entity, society, organization or association, and every agent, officer or employee of any thereof.

(3) The term "registrant" means the person who registers commercial fertilizer under the provisions of this Act.

(4) The term "commercial fertilizer" includes mixed fertilizer and/or fertilizer materials and any other substances, materials or elements or parts thereof, including but not limited to pesticides, intended for use or used as an ingredient or component of a mixture of materials which is used, designed or represented for use or claimed to have value in promoting plant growth, except unprocessed, unpackaged and unmanipulated lime, limestone, marl and gypsum. The term "commercial fertilizer," anything to the contrary notwithstanding, shall not include the excreta of animal and plant remains and mixtures of such substances for which no claims of grade are made.

(5) The term "fertilizer material" means any solid or non-solid substance or compound which contains any essential plant nutrient element in a form available to plants and which is used primarily for its essential plant nutrient element content in promoting or stimulating growth of plants or improving the quality of crops or for compounding mixed fertilizers, except the excreta of animals and plant remains and mixtures of such substances for which no grade claims are made other than to identify the product.

(6) The term "mixed fertilizer" means a solid or non-solid product which results from the combination, mixture, or simultaneous application of two or more fertilizer materials by a manufacturer, processor, mixer, or contractor, and shall include specialty fertilizers and manipulated manures, except the excreta of animals and plant remains and mixtures of such substances for which no grade claims are made other than to identify the product.

(7) The term "specialty fertilizer" means a commercial fertilizer distributed primarily for non-farm use, except the excreta of animals and plant remains and mixtures of such substances for which no grade claims are made other than to identify the product, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

(8) The term "manipulated manures" means substances composed of excreta of animals or plant remains, or mixtures of such substances, for which grade claims are made in addition to the identification of the product.

(9) The term "grade" means the percentages of total nitrogen, available phosphoric acid ( $P_2O_5$ ) and soluble potash ( $K_2O$ ) guaranteed in a commercial fertilizer and shall be stated in whole numbers in the same order.

(10) The term "brand" means the term, design, trademark and/or other specific designation under which a commercial fertilizer is distributed in this state.

(11) The terms "label" and "labeling" means a display of written, printed or graphic matter placed upon, affixed to, or accompanying the container in which a commercial fertilizer is distributed, or the invoice or delivery slip with which a commercial fertilizer is distributed in bulk.

(12) The term "percent" or "percentage" means percentage by weight in the avoirdupois system.

(13) The term "unit" means one percent (1%) by weight or twenty (20) pounds per ton of 2,000 pounds.

(14) The term "sell" or "sale" shall include exchange, barter, offering for sale, exposing for sale, consignment for sale and/or any other transfer of title or possession.

(15) The term "distribute" means to sell or otherwise supply commercial fertilizers.

(16) The term "container" means any bag, box, carton, bottle, barrel, tank, package, apparatus, device, appliance or other item of any capacity into which commercial fertilizers are packed, poured, stored, or placed for handling, transporting and/or distributing.

(17) The term "bulk" applies to a lot of any commercial fertilizer which is not in a closed container at the time it passes into possession of the consumer, and shall apply to such commercial fertilizer at all stages of distribution.

(18) The term "official sample" means any sample of commercial fertilizer taken by the Director or his representative and designated as official by the Director.

#### Administration

Sec. 3. The provisions of this Act shall be administered by the person appointed for such purpose by the Board of Directors of the Agricultural and Mechanical College of Texas, and hereinafter referred to as the "Director." The Board may also appoint a person as State Chemist who may be delegated the responsibility by the Director to make such chemical analyses and tests as may be required under this Act.

#### Registration

Sec. 4. (a) Each brand and grade of commercial fertilizer shall be registered with the Director before being distributed in this state. All registrations shall be permanent unless new registrations are called for by the Director or unless cancelled by the registrant or Director. The Director is empowered to prescribe and furnish the registration form and

is authorized and empowered to refuse the registration of any commercial fertilizer which is not in compliance with all provisions of this Act or regulations issued under this Act and to cancel any registration when it is subsequently found to be in violation of any provision of this Act or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of this Act or regulations thereunder.

(b) The registration request shall include the following information:

(1) The name and principal address of the person responsible for distributing the commercial fertilizer.

(2) The brand and grade.

(3) The guaranteed analysis, listing the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen .....	_____	percent
Available Phosphoric Acid (P <sub>2</sub> O <sub>5</sub> ) ..	_____	percent
Soluble Potash (K <sub>2</sub> O) .....	_____	percent

(4) The sources from which the nitrogen, phosphorus and potassium are derived.

(5) Copies of all printed, written, graphic or other matter, material or information of any kind, including symbols, designs, or trademarks which are to be placed upon, packed with, affixed to, or accompany the container of a packaged commercial fertilizer or the invoice covering commercial fertilizer distributed in bulk. Such material shall not be misleading in any particular. It shall not advertise, name, promote, emphasize, or otherwise direct attention to any one or more of the components or ingredients in the product, unless the percentage and common name of such ingredient are clearly and prominently declared, nor to the exclusion of other components or ingredients, or to any constituent or element of any component or any ingredient, or to any product of or otherwise reference in any manner any other manufacturer, firm, organization or other such person, except when specifically authorized or required by provisions of this Act or by regulations which the Director is herewith empowered to issue.

(c) Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphoric acid and the degree of fineness. For bone, tankage, and other organic phosphate materials, the total phosphoric acid shall be guaranteed. Additional plant food elements or other additives, determinable by acceptable methods, may be incorporated in a commercial fertilizer and/or guaranteed only when and in such manner as may be authorized by the Director by regulation which he is authorized to issue, and shall be subject to inspection, analysis and all other provisions of this Act.

(d) A distributor shall not be required to register any brand of commercial fertilizer which has already been registered under this Act by another person.

(e) Any mixed fertilizer in which the sum of the guarantees for nitrogen, phosphorus as available phosphoric acid and/or potassium as potash is less than twenty-four percent (24%), except manipulated manures, specialty fertilizers and commercial fertilizers sold only for their content of secondary components, shall not be registered in the state.

#### Labeling

Sec. 5. The net weight and the information required or authorized by Section 4(a), (b1), (b2), (b3), (b5) when applicable, and (c) of this Act

must appear on one side of a label affixed to the container or printed on one side of the container in which a packaged commercial fertilizer is distributed, or attached to or upon the invoice or delivery ticket of a lot of commercial fertilizer which is distributed in bulk.

#### Inspection fee

Sec. 6. (a) An inspection fee of Twenty-five Cents (25¢) per ton of commercial fertilizer distributed in this state or a minimum inspection fee of Twenty-five Dollars (\$25.00) for each state fiscal year, whichever is the greater, shall be paid by the registrant of such commercial fertilizer to the Director at his office in College Station, Texas. When more than one person is involved in the distribution of such a commercial fertilizer, the last registrant who distributes to a non-registrant (dealer or consumer) is responsible for reporting the tonnage and for paying the inspection fee. Payment of the inspection fee shall be based upon and shall accompany the quarterly report of distribution of commercial fertilizers required by Section 6(c) of this Act. If payment of the inspection fee is not made within thirty (30) days after the close of each quarter, a collection fee equal to ten percent (10%) of the inspection fee due, or a minimum collection fee of Ten Dollars (\$10.00), whichever is the greatest, shall be assessed against the registrant. If payment of the inspection fee plus the collection fee is not made within ten (10) days following the expiration of the thirty (30) day period, the Director shall cancel the registrations of the delinquent registrant, provided that the Director at his discretion may require additional reports for the purpose of identification and verification of the report.

(b) All fees collected by the Director under Section 6(a) of this Act shall be deposited by the Director in the same manner as other local institutional funds of the Agricultural and Mechanical College of Texas and shall be set apart as a special fund to be known as the Texas Fertilizer Control Fund which shall be used, with the approval and consent of the Board of Directors of the Agricultural and Mechanical College of Texas, for administering and enforcing this Act, including the cost of salaries, equipment and facilities, the cost of registration, publication of bulletins and reports, the cost of inspecting, sampling, and analysis and all other expenses connected with the proper and efficient administration and enforcement of this Act. Any funds collected under the provisions of this Act which, in the judgment of the Board of Directors of the Agricultural and Mechanical College of Texas, are not needed for the proper and efficient administration and enforcement of this Act may, with the approval and consent of said Board of Directors, be used for research relative to the value of commercial fertilizers.

(c) Every registrant of commercial fertilizers shall file in the office of the Director at College Station, Texas, within thirty (30) days after the close of each quarter year ending with the last day of November, February, May and August, a sworn report, on forms prescribed and furnished by the Director, setting forth the tonnage of each and every commercial fertilizer distributed by him in this state during such quarter, and shall file with that report a remittance in payment of the inspection fee required by Section 6(a) of this Act.

(d) Every registrant of commercial fertilizers shall maintain and, upon request of the Director, furnish such records and additional reports as the Director may require to determine accurately the tonnages of all commercial fertilizers distributed by the registrant in this state which are subject to the inspection fee required by Section 6(a) of this Act. The

Director or his duly authorized representative shall have permission to examine the records of the registrant at all reasonable times. All records shall be preserved and retained in usable condition, and shall be available for examination by the Director or his representative for a period of not less than two (2) years unless otherwise authorized by the Director. The Director may require the retention of such records for a period of more than two (2) years in instances when he deems it in the public interest to do so.

(e) Every registrant who is located outside the State of Texas but who distributes commercial fertilizer in the State of Texas shall maintain in the State of Texas the records and information required by Section 6(d) of this Act or shall pay all costs incurred in the auditing of records at a location outside of the state. Itemized statements of costs incurred in any such audits shall be furnished the registrant by the Director promptly upon the completion of any such audit, and the registrant shall pay the same within thirty (30) days from the date of such statement.

(f) Venue of all suits for recovery of inspection and collection fees required by this Section 6 shall be in Brazos County, Texas.

(g) The Director is authorized and directed to cancel all registrations of any registrant who fails to comply with the requirements of this Section 6.

#### Ratio and grade lists

Sec. 7. After due notice has been given and a public hearing open to all interested parties has been held, prior to or as early as practicable after June 30 of each year, the Director shall promulgate and publish a list of ratios and/or minimum grades of mixed fertilizers which he considers adequate to meet the agricultural needs of this state.

#### Inspection, sampling, and analysis

Sec. 8. (a) The Director or his representatives shall have access during regular business hours to all places of business, plants, buildings, vehicles, bins, vats and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial fertilizer and is authorized and empowered to inspect each such place, plant or vehicle and to open any container, bin or parcel containing or suspected of containing any commercial fertilizer and to take such samples therefrom in the manner prescribed by regulation by the Director as he deems necessary to determine whether such commercial fertilizer is in compliance with the provisions of this Act.

(b) In order that each sample may be properly identified with the lot of commercial fertilizer sampled, the Director or his representative may examine and make copies of any invoice, transportation records or other records pertaining thereto.

(c) Procedures for sampling and analysis shall be promulgated by the Director and shall be in accordance with official methods adopted by the Association of Official Agricultural Chemists of North America or, such other procedures as the Director may deem authentic by research and investigation.

(d) Each sample shall be sealed with a label placed thereon which states the serial number of the sample, the date when the sample was taken, and the signature of the person who took the sample, and shall be sent to the Director or his representative. A report stating the name or brand of the commercial fertilizer sampled, the serial number, the guarantor

thereof, the name of the person in possession of the lot of the product from which the sample was taken, the date and place of taking the sample, and the name of the person taking the sample, shall be sent to the Director or his representative.

(e) In the event the Director finds, through chemical analysis or any other method or procedure, that a commercial fertilizer is in violation of any provision of this Act, he shall so notify in writing the manufacturer or other person who caused the fertilizer to be distributed, and to the consignee, if any, giving full details. The manufacturer or the person who causes the fertilizer to be distributed may thereupon, within fifteen (15) days after said notice has been given, request, and the Director shall so direct if requested, that two (2) portions of the sample of such fertilizer be submitted for analysis to two (2) qualified chemists selected by the Director, and the Director shall if so requested within the same fifteen (15) day period direct that one (1) portion of the sample be furnished such manufacturer or other person. Each of said chemists shall certify in duplicate, under oath, his findings to the Director, whereupon one such duplicate from each chemist shall be forwarded by the Director to the manufacturer or other person including the consignee, if any. The three (3) chemical analyses thus obtained may be considered in determining whether any violation of this Act has occurred. The manufacturer or other person requesting the analyses shall pay the cost of such analyses.

(f) Samples may be submitted by other persons when taken in accordance with rules and regulations which the Director is authorized to promulgate, but the results of such samples shall be for informational purposes only and shall not identify the manufacturer or be published.

#### False or misleading statements and adulteration

Sec. 9. It shall be unlawful to distribute a misbranded or adulterated commercial fertilizer in this state.

(a) A commercial fertilizer is misbranded if it carries any false or misleading statement upon, attached to or accompanying the container, or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer.

(b) A commercial fertilizer is adulterated when it has been damaged in any way whereby its value is reduced, or when damage or inferiority has been concealed in any manner, or when any substance has been added that reduces its quality to make it appear of greater value than it is.

#### Detained commercial fertilizers

Sec. 10. (a) Whenever the Director shall find a commercial fertilizer which he has reasonable cause to believe is being distributed in violation of any provision of this Act, he shall affix to the container of such commercial fertilizer a written notice stating that such commercial fertilizer has been detained and warning all persons not to dispose of such commercial fertilizer in any manner until permission is given by the Director, or by a court, or until the detainer expires as hereinafter provided. If the Director finds that detained commercial fertilizer is not in violation of any provision of this Act, he shall forthwith remove the detainer notice from such commercial fertilizer. The detainer notice shall expire and shall become a nullity at the expiration of ten (10) days after it is affixed to any commercial fertilizer unless prior to such time the Director has instituted



proceedings to condemn such commercial fertilizer pursuant to the provisions of this Section.

(b) If detained commercial fertilizer is found, after examination and analysis, to be in violation of any provision of this Act, the Director shall petition the district or county court in whose jurisdiction the commercial fertilizer is located for an order for condemnation and confiscation of such commercial fertilizer. If it be determined by the court that the commercial fertilizer violates any provisions of this Act, such commercial fertilizer shall be disposed of by destruction or by sale in accordance with the judgment of the court, and if the commercial fertilizer is sold, the proceeds from such sale, less court costs and charges, shall be paid into the State Treasury. Provided, however, that when the violation of this Act which is found by the court with respect to such commercial fertilizer can be corrected by proper processing or labeling, the court, after entry of the decree and after all costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such commercial fertilizer shall be properly processed or labeled, has been executed, shall make an order directing that such commercial fertilizer be delivered to the registrant thereof for such processing or labeling under the supervision of the Director. The expense of such supervision shall be paid by the registrant of the commercial fertilizer. The bond shall be returned to the registrant when the Director notifies the court that the commercial fertilizer is no longer in violation of this Act, and that the supervision expense aforesaid has been paid.

(c) If the Director deems any violation under this Section to be of minor nature, and if he is of the opinion that the public interest will be served and protected by the issuance of a written warning to the violator, he shall have discretion to forego such detainer action.

#### Penalties

Sec. 11. (a) Any person who performs any act herein declared to be unlawful, or who causes such act to be performed or who conspires to perform such act, shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Before the Director reports a violation for such prosecution, an opportunity shall be given such person to present his views.

(b) Any person who violates any of the provisions of this Act shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Each separate violation shall constitute a separate offense.

(c) The venue for any and all criminal prosecutions and civil actions shall be as under General Law except as provided for in Section 6(f).

(d) It shall be the duty of each district attorney, criminal district attorney, or county attorney, to whom the Director reports any violation of this Act, to cause appropriate proceedings to be instituted and prosecuted in the proper courts without delay in the manner provided by law.

(e) The Director is authorized to cancel all registrations of any registrant who fails to comply with any of the provisions of this Act or any rules or regulations issued under authority of this Act, after due opportunity for hearing has been given.

#### Appeal

Sec. 12. Any person at interest aggrieved by any order or ruling of the Director may appeal from such order or ruling to the District Court of his residence by filing a petition in such District Court within twenty (20) days from the date of such ruling or order. The appeal shall be de novo as that term is known as appealing from the Justice Court, and the burden of proof shall not be on the defendant.

#### Rules and regulations

Sec. 13. The Director is hereby authorized to enforce the provisions of this Act and to prescribe, adopt and enforce such rules and regulations relating to the distribution of commercial fertilizers as he may find necessary to carry into full effect the intent and meaning of this Act; provided, however, that prior to the issuance of any such rules and regulations, the Director shall hold public hearings pursuant to not less than fifteen (15) days notice in writing. Each such notice shall set forth the time and place of the hearing and a copy of the proposed rules and regulations shall be mailed to such organizations as may reasonably be expected to be vitally affected by said proposed rules and regulations.

#### Publications

Sec. 14. The Director shall publish at least annually, in such form as he may deem proper, information concerning the sales of commercial fertilizers, together with such data on their sale as he may consider advisable, a report of the results of the analyses based on official samples of commercial fertilizers sold within the state as compared with the analysis guaranteed, and a financial statement showing funds received and how expended under Section 6 of this Act; provided, however, that the information concerning the sale of commercial fertilizers shall be shown separately for the fall season and spring season of each year, and that no disclosure shall be made of the scope of operations of any person.

#### Exchanges among manufacturers

Sec. 15. Nothing in this Act shall be construed to apply to, restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers or manipulators who mix fertilizers for distribution or as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or manipulators who have registered their brand names as required by the provisions of this Act.

#### Repeal of prior and conflicting laws

Sec. 16. Articles 1709 through 1720, inclusive, of Title 19, Chapter 12 of the Penal Code of the State of Texas, (1925), as amended by Chapter 170, Acts of the 51st Legislature, Regular Session, (1949), and Chapter 9, Acts of the 52nd Legislature, Regular Session (1951), and Articles 94 through 108, inclusive, of Title 4, Chapter 5 of the Revised Civil Statutes of Texas, (1925), as amended by Chapter 170, Acts of the 51st Legislature, Regular Session (1949), are superseded by this Act and are hereby repealed. All other laws and parts of laws in conflict herewith are hereby repealed insofar as they are in conflict.

#### Pending court cases

Sec. 17. Any court cases which are pending on the effective date of this Act shall not be affected by the passage of this Act, but shall be acted upon in accordance with the provisions of Title 19, Revised Criminal Stat-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

utes, 1925, as amended, and Title 4, Revised Civil Statutes, 1925, as amended. Acts 1961, 57th Leg., p. 54, ch. 37.

Emergency. Effective Sept. 1, 1961.

**Title of Act:**

An Act relating to the regulation of the manufacture, sale, or distribution, of commercial fertilizer; repealing Articles 1709 through 1720, inclusive, Title 19, Chapter

12, Texas Penal Code, as amended, and Articles 94 through 103, inclusive, Title 4, Chapter 5, Texas Revised Civil Statutes, (1925), as amended; and declaring an emergency. Acts 1961, 57th Leg., p. 54, ch. 37.

## CHAPTER SEVEN—NURSERY STOCK

Art.

128a. Rose plants, cuttings and bushes  
[New].

Art. 128a. Rose plants, cuttings and bushes

### Purpose of act

Section 1. The purpose of this Act is to provide necessary authority for the Commissioner of Agriculture to prescribe rules, regulations and procedures for inspection, grading and labeling of all rose plants, cuttings, bushes and shipments thereof sold or offered to be sold within the State of Texas.

### Rules, regulations and procedures; notice; hearing; approval

Sec. 2. In addition to all other duties and responsibilities, the Commissioner of Agriculture shall after due notice and public hearing prepare and publish in pamphlet form reasonable rules, regulations and procedures that are necessary to carry out the provisions of this Act and the duties and responsibilities of his office in connection therewith, provided such rules and regulations are approved in writing by the Attorney General of Texas, and such approval shall remain on file in the office of the Commissioner of Agriculture for public inspection.

### Grading and labeling

Sec. 3. From and after the effective date of this Act, no person, firm or corporation shall sell or offer for sale in commercial quantities or as a part of the regular operation of business any rose plants, cuttings, bushes or shipments thereof, unless said rose plants, cuttings, bushes or shipments thereof shall have been graded and labeled in accordance with the grades or classifications promulgated by the Commissioner of Agriculture pursuant to his authority herein granted, and he shall establish as one of such grades or classifications the grade or classification of "ungraded."

### Enforcement of act; inspection; verification of grade; certificates of authority

Sec. 4. The Commissioner of Agriculture, or his duly authorized representative under the supervision and control of the Commissioner, shall enforce the provisions of this Act; and any authorized representative of the Commissioner of Agriculture may enter any place of business, farm, shed or other location during ordinary business hours within the state where rose plants, cuttings, bushes or shipments thereof are grown, sold, offered for sale or displayed, and shall inspect and verify the grade, or shall cause to be inspected and graded, such rose plants, cuttings, bushes or shipments thereof as may be offered for sale, and

such inspection may include the grading of said rose plants, cuttings, bushes or shipments thereof into one of the grades provided for in his rules and regulations; and the Commissioner of Agriculture shall issue or cause to be issued a certificate of authority to the person, firm or corporation grading, selling or offering for sale the rose plants, cuttings, bushes or shipments thereof. The certificate shall bear a number which shall be used by the certificate holder on all labels attached to rose plants, cuttings, bushes or shipments thereof sold or offered for sale by the holder or under his direction.

Stop sale orders

Sec. 4a. The Commissioner of Agriculture, or his duly authorized representative, may, while enforcing the provisions of this Act, issue and enforce a written or printed "Stop Sale Order" on any rose plants, cuttings, bushes or shipments thereof offered for sale which shall not bear a label showing the proper classification or grade, and such "Stop Sale Order" shall prohibit further sales of such rose plants, cuttings, bushes, or shipments thereof until they shall be properly graded, classified and labeled.

Inspection, grading and labeling in other states

Sec. 5. The Commissioner of Agriculture may accept the inspection, grading and labeling of rose plants, cuttings, bushes or shipments thereof as performed in other states by the duly authorized authority in said state, provided the rose plant, cutting, bush or shipment thereof shall be plainly labeled with the grade indicated, or plainly marked that said rose plant, cutting, bush or shipment thereof is ungraded, but in no event shall a rose plant, cutting, bush or shipment thereof be sold or offered for sale that does not bear a label clearly showing its grade or classification, and such grade or classification must be at least equal to such grade or classification as promulgated by the Texas Department of Agriculture.

License fees

Sec. 6. The annual license fee for growers, dealers, wholesalers and processors shall be determined according to the actual amount of work done or time consumed by the Commissioner or under his direction and supervision, and the license year shall be twelve (12) months, or any fraction thereof, beginning on January 1 and ending on December 31, and any certificate of authority issued during the said year shall be for the remainder thereof and for no longer period. The annual license fee for the certificate of authority shall in no event be less than the following schedule:

- (a) For growers, dealers, wholesalers or processors handling, selling or offering for sale up to one hundred thousand (100,000) rose plants, cuttings or bushes for the calendar year..... \$15.00
- (b) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of one hundred thousand (100,000) and less than five hundred thousand (500,000) rose plants, cuttings or bushes for the calendar year ..... \$25.00
- (c) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of five hundred thousand (500,000) and less than one million (1,000,000) rose plants, cuttings or bushes for the calendar year ..... \$50.00
- (d) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of one million (1,000,000) rose plants, cuttings or bushes for the calendar year ..... \$100.00

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

All fees collected hereunder shall be fees of office of the Commissioner of Agriculture and shall be deposited in the General Fund of the State of Texas, subject to appropriation by the Legislature. Persons, firms or corporations purchasing graded stock and not themselves determining or influencing the grade thereof, shall be exempt from the annual license fee for the certificate of authority.

#### Penalties

Sec. 7. Any person, firm or corporation advertising for sale, selling or offering for sale rose plants, cuttings, bushes or shipments thereof that are not clearly and distinctly marked with a grade or classification in accordance with the rules and regulations of the Commissioner of Agriculture, and after the effective date of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty and No/100 (\$50.00) Dollars, nor more than One Hundred and No/100 (\$100.00) Dollars, and each separate sale shall be a separate offense and violation. Acts 1961, 57th Leg., p. 597, ch. 285.

Effective 90 days after May 29, 1961, date of adjournment.

False representations, nursery stock, see Vernon's Ann.P.C. art. 1696.

Fraud in sales of nursery stock, see Vernon's Ann.P.C. art. 1700.

### CHAPTER SEVEN B—NOXIOUS WEEDS

Art. 135c. Districts for control and eradication of noxious weeds in certain counties

#### Counties to which applicable

Section 1. This Act shall apply to the following counties only: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens and Comal. As amended Acts 1961, 57th Leg., p. 26, ch. 16, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

### CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION

Art. 165a—4a. Watershed protection and flood prevention; contracts for work plans [New].

Art. 165a—4a. Watershed protection and flood prevention; contracts for work plans

The State Soil Conservation Board is hereby authorized to contract with an agency or agencies of the State of Texas, or of the United States, or with private firm or firms, for the development of such plans as may be necessary for securing detailed information for and development of work plans for location, design, installation and construction of structures and other works of improvement for the reduction and prevention of floods in

State approved watershed protection and flood prevention projects of 250,000 acres or less. Acts 1961, 57th Leg., p. 988, ch. 431, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Inapplicability of Acts 1961, 57th Leg., D. 1034, ch. 457, restricting the power to organize water control and improvement districts, to soil conservation districts, see art. 7880-1a.

Title of Act:

An Act authorizing the State Soil Conservation Board to contract for the development of work plans for watershed protection and flood prevention; and declaring an emergency. Acts 1961, 57th Leg., p. 988, ch. 431.

CHAPTER TEN—MILK PRODUCERS AND DISTRIBUTORS

Art.

165-3a. Texas Equal Health Standard Milk Sanitation Act of 1961 [New].

Art. 165-3. Milk grading and pasteurization

Texas Equal Health Standard Milk Sanitation Act of 1961, see art. 165-3a.

Art. 165-3a. Texas Equal Health Standard Milk Sanitation Act of 1961

Title

Section 1. The name of this Act shall be "Texas Equal Health Standard Milk Sanitation Act of 1961."

Declaration of purpose

Sec. 2. The purpose of this Act is effectively to utilize existing agencies and departments in regulating, processing, and distributing milk and milk products to the end that Texas consumers will be assured of a full supply of wholesome, high quality milk, cream, and milk products by requiring that all Grade A pasteurized milk and/or Grade A raw milk for pasteurization imported into Texas be produced under rules, regulations, and Statutes providing standards as high as or higher than those provided by the Texas Milk Grading and Labeling Law, Chapter 172 (codified as Article 165-3, Vernon's Annotated Civil Statutes), Acts of the 45th Legislature, Regular Session, 1937, and any other Statutes, rules, and regulations governing the production of milk in Texas.

Importation of milk; standards

Sec. 3. From and after the effective date of this Act, no person, officer, or inspector authorized under the laws of this state or of any municipality within this state to inspect or regulate the production of fluid milk of whatever quality shall in any wise approve, grant, or issue a permit for, or otherwise authorize Grade A pasteurized milk and/or Grade A raw milk for pasteurization to be imported into this state unless such person, officer, or inspector, upon the basis of his own investigation or upon the basis of information provided him by the Texas State Department of Health as specified in Section 4 of this Act, finds that the milk from outside the State of Texas is being produced according to and in compliance with the provisions of a Statute or ordinance providing standards as high or higher than those provided in the Texas Milk Grading and Labeling Law, Chapter 172, Acts of the 45th Legislature, Regular Session, 1937, (codified as Article 165-3, Vernon's Annotated Civil Statutes) and that such milk is being produced under rules and regulations providing stand-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ards as high or higher than those provided in the rules and regulations promulgated by the Texas State Department of Health under authority of the Texas Milk Grading and Labeling Law, and that such Statute or ordinances and rules and regulations promulgated thereunder are being interpreted and enforced in a manner reasonably and substantially equivalent to the interpretation and enforcement of the Texas State Department of Health of Grade A pasteurized milk and/or Grade A raw milk for pasteurization produced in the State of Texas, and that such milk meets the requirements of the United States Public Health Service Milk Ordinance and Code of 1953, as amended, and of the Federal Food, Drug and Cosmetic Act for the interstate movement of milk.

Enforcement of act; permits to import milk; applications; revocation

Sec. 4. The enforcement of the provisions of this Act shall be the responsibility of the Texas State Department of Health, which Department is hereby charged with the duty of determining as to any area from which Grade A pasteurized milk and/or Grade A raw milk for pasteurization is being imported or is sought to be imported into the State of Texas for pasteurization whether such milk is being produced under and in compliance with the Statutes or ordinances providing standards as high as or higher than those provided in the Texas Milk Grading and Labeling Law, Chapter 172 (codified as Article 165—3, Vernon's Annotated Civil Statutes), Acts of the 45th Legislature, Regular Session, 1937, and that such milk is being produced under and in compliance with rules and regulations pursuant thereto, and providing standards as high as or higher than those provided in the rules and regulations promulgated by the Texas State Department of Health under authority of the Texas Milk Grading and Labeling Law and that such Statutes or ordinances and rules and regulations promulgated thereunder are being interpreted and enforced in a manner reasonably and substantially equivalent to the interpretation and enforcement of the Texas State Department of Health for Grade A pasteurized milk and/or Grade A raw milk for pasteurization produced in Texas and that such milk meets the requirements for interstate movement of milk as specified in the United States Public Health Service Milk Ordinance and Code of 1953, as amended, and of the Federal Food, Drug and Cosmetic Act. Listings of out-of-state areas of production from which the certifications of local inspectors who are approved by the United States Public Health Service and the Texas State Department of Health may be given full faith and credit shall be furnished by the Texas State Department of Health to all persons, officers, and inspectors authorized under the laws of this state or of any municipality within this state to approve, grant, or issue a permit for, or otherwise authorize Grade A pasteurized milk and/or Grade A raw milk for pasteurization to be imported into this state. Applications for permits authorizing the importation into the State of Texas of Grade A pasteurized milk and/or Grade A raw milk for pasteurization may be made to any person, officer, or inspector authorized under the laws of this state or of any municipality within this state to grant or issue a permit for or otherwise authorize Grade A pasteurized milk and/or Grade A raw milk for pasteurization to be imported into this state, provided, however, that all such permits or other authorizations shall be issued as certifications upon forms furnished by the Texas State Department of Health. Any permit issued either by a local officer or inspector may be revoked at any time by the Texas State Department of Health upon a finding by the Department that milk imported into the State of Texas for human consumption is not being produced under the requirements and conditions set out herein.

Issuance of permits; violations; fines and penalties; certification or authorization; spot checking

Sec. 5. Any person, officer, or inspector who shall issue a permit authorizing the importation of Grade A pasteurized milk and/or Grade A raw milk into the State of Texas, for human consumption, for pasteurization except upon the basis of the certification or affidavit of an authorized inspector or officer of the state from which such milk is sought to be imported, who is approved by the Texas State Department of Health as being entitled to full faith and credit, that the applicant is subject to and is complying with the rules and regulations of that jurisdiction and that under such rules and regulations is producing Grade A pasteurized milk and Grade A raw milk for pasteurization, shall, if it is found that such milk is not being produced under Statutes, ordinances, rules and regulations as high or higher than those governing the production of Grade A pasteurized milk and Grade A raw milk for pasteurization in Texas, be subject to the same fines and penalties to which he would be subjected for giving a false certificate with regard to milk being produced in Texas. No Grade A raw milk for pasteurization and/or no Grade A pasteurized milk shall be imported into this state under a certificate or authorization of a non-resident person, officer, or inspector unless such certification or authorization is signed by a person, officer or inspector of the state from which such milk is sought to be imported, who has been approved by the Texas State Department of Health; and the Texas State Department of Health shall use all presently existing powers and authority, as well as any authority conferred upon it under the provisions of this Act, to ascertain and determine if milk imported, or sought to be imported into this state complies with the health standards provided for at any place herein, and to this end, shall, whenever determined necessary, periodically direct on the spot checking of any such milk whether produced outside or inside the State of Texas, or the area of production, in order to determine if such milk complies with the provisions of this Act and with the health standards, rules and regulations governing the production of milk in Texas.

Severability

Sec. 6. If any Section, Subsection, sentence, clause, phrase, word, or part of this Act or the applications thereof are for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act, and the Legislature hereby declares that it would have passed this Act and each Section, Subsection, sentence, clause, phrase, word, or part thereof despite the fact that one or more Sections, Subsection, sentence, clause, phrase, word, or parts thereof be declared unconstitutional. The Legislature further declares that this Act shall not be in conflict with or repeal any provisions of the Texas Milk Grading and Labeling Law, Acts of the 45th Legislature, Regular Session, 1937 (codified as Article 165—3, Vernon's Annotated Civil Statutes). Acts 1961, 57th Leg., p. 894, ch. 394.

Effective October 1, 1961.

Milk grading and pasteurization, see art. 165—3.

Sale of unwholesome milk, see art. 4474; Vernon's Ann.P.C. art. 712.

Texas Food, Drug and Cosmetic Act, see art. 4476—5.



**CHAPTER FIFTEEN—CHICKEN EGGS**

**Art. 165—8. Handling and sale of chicken eggs**

**Containers for eggs; requirements**

Sec. 9. All containers in which eggs for human consumption are offered for sale to food purveyors or consumers must:

(a) Be labeled according to size and grade in distinctly legible bold face type not less than one-fourth ( $\frac{1}{4}$ th) inch in height;

(b) Not be deceptively labeled, advertised, or invoiced;

(c) State the name of either the dealer-wholesaler, retailer, food purveyor, or agent by or for whom the eggs were graded and labeled;

(d) Not be advertised in a manner which indicated price without also indicating the full, correct and unabbreviated designation of size and grade of eggs therein;

(e) Not be labeled "fresh" if the eggs offered for sale have been held under refrigeration for a period of sixty (60) days or more. These eggs which are held sixty (60) days or more shall not be labeled "AA" or "A."

In the case of eggs offered for sale uncartoned, a sign showing the proper designation of size and grade must be clearly displayed attached to the container. This sign must be distinctly legible in letters at least one (1) inch high. As amended Acts 1959, 56th Leg., p. 741, ch. 335, § 1; Acts 1961, 57th Leg., p. 540, ch. 254, § 1.

**License fee; enforcement fund; definitions**

Sec. 15. In order to create a fund for the enforcement of the provisions of this Act, each licensee shall pay an annual license fee; provided, however, that no retailer as that term is defined herein shall be required to pay any license fee. The term "retailer" is defined to mean any person selling or offering for sale eggs to consumers only in this state. Licenses shall be classified under the following headings:

(a) Retailers. A retailer means a person selling or offering for sale eggs to consumers in this state.

(b) Dealer-Wholesaler. A dealer-wholesaler means a person engaged in the business of buying eggs from producers or other persons on his own account and selling or transferring eggs to other dealer-wholesalers, processors, retailers, or other persons and consumers. A dealer-wholesaler further means a person engaged in producing eggs from his own flock and disposing of this production on a fully graded basis.

(c) Processors. A processor means a person who operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing.

(d) Brokers. A broker means a person who never assumes ownership or possession of eggs, but is engaged in the business of acting as agent, for a fee or commission, in the sale or transfer of eggs between producers, or dealer-wholesalers as sellers and dealer-wholesalers, processors, or retailers as buyers. As amended Acts 1961, 57th Leg., p. 540, ch. 254, § 2.

**Annual license fees; amounts; disposition**

Sec. 16. The annual license fee for dealer-wholesalers, and processors shall be determined according to the average weekly volume of the month in which the licensee handled the most eggs during the preceding

twelve (12) months ending on May 31st, except that for a new business the fee shall be determined according to the average weekly volume of the month in which the licensee handled the most eggs through May of the first license year. In the case of a new business, a fee based on an estimate of the volume of business to be done shall be paid at the time the license is obtained, and an adjustment in the payment shall be made when the year's records are available.

The license year shall be twelve (12) months or any fraction thereof beginning on September 1st, and ending on August 31st, except that licenses issued for a new business during the month of August shall extend to August 31st of the following year. The license fee shall be paid prior to issuance of the initial license, and renewal fees shall be paid annually during the month of August.

The annual license fees shall be as follows:

(a) Dealer-Wholesalers at each Plant:

1 case (30 doz. eggs) to and including 9.....	\$ 7.50
10 cases to and including 49 .....	15.00
50 cases to and including 99 .....	22.50
100 cases to and including 199 .....	37.50
200 cases to and including 499 .....	75.00
500 cases to and including 999 .....	112.50
1,000 cases to and including 1,499 .....	150.00
1,500 cases to and including 2,999 .....	300.00
3,000 cases and up .....	375.00

(b) Processors:

Less than 250 cases .....	\$ 30.00
250 cases to and including 499 .....	45.00
500 cases to and including 999 .....	60.00
1,000 cases and up .....	75.00

(c) Brokers .....

7.50

The proceeds of such license fees shall be paid into the State Treasury by the Commissioner and placed by the State Treasurer in the Special Department of Agriculture Fund. As amended Acts 1961, 57th Leg., p. 540, ch. 254, § 3.

Records of purchases and sales

Sec. 17. (a) Every licensed dealer-wholesaler, and processor shall keep on file within this state for a period of two (2) years a true and complete record of all eggs purchased or sold. This record shall show the name and address of the person from whom eggs were purchased and to whom sold, and also the number of dozens or cases included in each transaction and the date thereof. Provided, that in situations where such person is also a retailer, and said eggs have been purchased by him from the producers thereof in less than case lots, no connection need be made between the record of such eggs purchased and the record of such eggs sold. The Commissioner may prescribe record forms and may require such additional information as may be necessary in the administration of this Act. The record shall be open to inspection by the Commissioner or his duly authorized representative at all reasonable times.

(b) Every licensed dealer-wholesaler, and processor shall deliver with each transaction, sale or delivery a signed invoice stating the date, quantity, grade and size of the eggs sold, and shall keep a copy of each invoice for the same period as stated in subdivision (a) of this Section. As amended Acts 1961, 57th Leg., p. 540, ch. 254, § 4.

**Information concerning movement and sale; reports of official inspections**

Sec. 17a. The Commissioner shall publish annually, in such form as he may deem proper, information concerning the movement and sale of eggs, and a report of the results of the official inspections of eggs sold, offered for sale, or otherwise distributed within the state; provided, however, that information concerning movement and sale of eggs shall not disclose the scope of operations of any person. Added Acts 1961, 57th Leg., p. 540, ch. 254, § 5.

**Out-of-state seller**

Sec. 18. Nothing herein shall be construed as requiring an out-of-state seller of eggs to secure a license under this Act unless the sale is made to the retailer or consumer. As amended Acts 1961, 57th Leg., p. 540, ch. 254, § 6.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 5—ALIENS

## Art. 174. Corporations Controlled by Aliens

No corporation in which the majority of the capital stock is legally or equitably owned by aliens prohibited by law from owning land in Texas shall acquire title to or own any lands in Texas or any leasehold or other interest in such lands except as hereinafter provided and land so owned shall be subject to escheat as though owned by a nonresident alien; provided, however, that the provisions of this Article and of this Title 5 shall not apply to any corporation the majority of the capital stock of which is legally or equitably owned by citizens of the United States, if any such stock is so owned, and by:

(a) Aliens, either individual or corporate, who are citizens or subjects of, or in the case of a corporation incorporated under the laws of, any nation, country, province, or state which has a common land boundary with the United States; or

(b) Aliens, either individual or corporate, who are citizens or subjects of, or in the case of a corporation incorporated under the laws of, any nation, country, province, or state which permits citizens of this state to own land in fee in such nation, country, province or state; and any such corporation shall not be, or be deemed to be, an alien corporation for the purpose or within the meaning of any provision of this Title 5; and provided further, that nothing herein contained shall be construed to grant to any such corporation any right to own land in this state except to the extent permitted by the laws of this state applicable to private corporations generally. As amended Acts 1961, 57th Leg., p. 1018, ch. 445, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 7—ANIMALS

## 2. DESTRUCTION OF ANIMALS

## Art. 192b. Co-operation between state and federal agencies in destruction of predatory animals

## State to co-operate

Section 1. The State of Texas will cooperate through the Agricultural and Mechanical College System of Texas with the United States Department of the Interior, Fish and Wildlife Service in the control of coyotes, wolves, mountain lions, bobcats, the Russian boar, and other predatory animals and in the control of prairie dogs, pocket gophers, jack rabbits, ground squirrels, rats and other rodent pests for the protection of livestock, food and feed supplies, crops and ranges. As amended Acts 1961, 57th Leg., p. 285, ch. 156, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 8—APPORTIONMENT

## SENATORIAL DISTRICTS

## Article 193. [24] [16] [11] Senatorial Districts

The Senatorial Districts of the State of Texas shall hereafter be composed respectively of the following counties and each district shall be entitled to elect one Senator, to wit:

- No. 1. Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Marion, Morris, Red River, Titus.
- No. 2. Gregg, Harrison, Panola, Rusk, Shelby.
- No. 3. Angelina, Cherokee, Hardin, Jasper, Nacogdoches, Newton, Sabine, San Augustine, Tyler.
- No. 4. Jefferson, Orange.
- No. 5. Grimes, Houston, Leon, Liberty, Madison, Montgomery, Polk, San Jacinto, Trinity, Walker, Waller.
- No. 6. Harris.
- No. 7. Camp, Henderson, Kaufman, Smith, Upshur, Van Zandt, Wood.
- No. 8. Dallas.
- No. 9. Collin, Cooke, Fannin, Grayson, Hunt, Rains, Rockwall.
- No. 10. Tarrant.
- No. 11. Anderson, Brazos, Burleson, Falls, Freestone, Lee, Limestone, Navarro, Robertson.
- No. 12. Bosque, Comanche, Coryell, Ellis, Erath, Hamilton, Hill, Hood, Johnson, Somervell.
- No. 13. Bell, McLennan, Milam.
- No. 14. Bastrop, Travis, Williamson.
- No. 15. Austin, Colorado, DeWitt, Fayette, Lavaca, Matagorda, Washington, Wharton.
- No. 16. Bandera, Brown, Burnet, Concho, Gillespie, Kerr, Kimble, Kinney, Lampasas, Llano, McCulloch, Mason, Menard, Mills, Real, San Saba, Uvalde, Zavala.
- No. 17. Brazoria, Chambers, Fort Bend, Galveston.
- No. 18. Aransas, Bee, Calhoun, Goliad, Jackson, Karnes, Live Oak, McMullen, Refugio, San Patricio, Victoria.
- No. 19. Atascosa, Blanco, Caldwell, Comal, Frio, Gonzales, Guadalupe, Hays, Kendall, Medina, Wilson.
- No. 20. Kenedy, Kleberg, Nueces, Willacy.
- No. 21. Brooks, Dimmit, Duval, Jim Hogg, Jim Wells, LaSalle, Maverick, Starr, Webb, Zapata.
- No. 22. Callahan, Clay, Denton, Eastland, Jack, Montague, Palo Pinto, Parker, Stephens, Wise.
- No. 23. Archer, Baylor, Cottle, Foard, Hardeman, Dickens, King, Knox, Throckmorton, Wichita, Wilbarger, Young.
- No. 24. Borden, Haskell, Fisher, Garza, Howard, Jones, Kent, Mitchell, Nolan, Scurry, Shackelford, Stonewall, Taylor.
- No. 25. Brewster, Coke, Coleman, Crane, Crockett, Edwards, Glasscock, Irion, Jeff Davis, Pecos, Presidio, Reagan, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Val Verde.
- No. 26. Bexar.
- No. 27. Cameron, Hidalgo.

- No. 28. Andrews, Cochran, Crosby, Dawson, Gaines, Hockley, Lubbock, Lynn, Martin, Terry, Yoakum.
- No. 29. Culberson, Ector, El Paso, Hudspeth, Loving, Midland, Ward, Winkler, Reeves.
- No. 30. Armstrong, Bailey, Briscoe, Castro, Childress, Collingsworth, Deaf Smith, Donley, Floyd, Hale, Hall, Lamb, Motley, Parmer, Swisher.
- No. 31. Carson, Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Wheeler.

Acts 1961, 57th Leg., p. 544, ch. 256, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

Sections 1-3 of the Act of 1961 related to representative districts. See art. 195.

Section 5 of the act of 1961 provided: "This Act shall become effective for the elections, Primary and General, for all Senators, from the places herein specified and described, to the Fifty-eighth Legislature, and continue in effect thereafter for suc-

ceeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or districts, of the Fifty-seventh Legislature; and provided further, that in case a vacancy occurs in the office of any Senator of the Fifty-seventh Legislature by death, resignation, or otherwise, and a Special Election to fill such vacancy becomes necessary, said election shall be held in the district as it now exists."

REPRESENTATIVE DISTRICTS

Art. 195. [26] [18] [13] Representative districts; returns

Section 1. The Representative Districts of the State of Texas shall be composed respectively of the following named Counties and each District shall be entitled to elect one Representative except as otherwise provided herein:

- 1. Bowie
- 2. Morris, Cass, Marion
- 3. Harrison
- 4. Rusk, Panola
- 5. Nacogdoches, San Augustine, Shelby
- 6. Trinity, Angelina
- 7. Jasper, Newton, Tyler, Sabine
- 8. Orange
- 9. Jefferson
- Place 1
- Place 2
- Place 3
- Place 4
- 10. Lamar, Red River
- 11. Delta, Hopkins, Franklin, Titus
- 12. Wood, Upshur, Camp
- 13. Gregg
- 14. Smith
- 15F. Smith, Gregg
- 16. Anderson, Cherokee
- 17. Houston, Walker, Leon
- 18. Madison, Grimes, Montgomery
- 19. San Jacinto, Polk, Hardin
- 20. Liberty, Chambers
- 21. Galveston
- Place 1
- Place 2

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

22. Harris
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
  - Place 9
  - Place 10
  - Place 11
  - Place 12
23. Brazoria
24. Fannin, Hunt
25. Kaufman, Rockwell
26. Rains, Van Zandt, Henderson
27. Falls, Limestone, Freestone
28. Brazos
29. Washington, Austin, Waller
30. Fort Bend
31. Wharton
32. Matagorda, Jackson
33. Victoria, Calhoun
34. Goliad, Live Oak, Bee, Refugio
35. San Patricio, Aransas
36. Nueces
  - Place 1
  - Place 2
  - Place 3
  - Place 4
- 37F. Kleberg, Kenedy, Hidalgo
38. Hidalgo
  - Place 1
  - Place 2
  - Place 3
39. Cameron
  - Place 1
  - Place 2
- 40F. Willacy, Cameron
41. Ellis
42. Hill, Navarro
43. McLennan
  - Place 1
  - Place 2
  - Place 3
44. Bell
  - Place 1
  - Place 2
45. Milam, Robertson, Burleson
46. Bastrop, Fayette, Colorado
47. Gonzales, Lavaca, DeWitt
48. Grayson
- 49.F. Grayson, Cooke
50. Collin

51. Dallas
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
  - Place 9
52. Johnson, Somervell, Bosque
53. Hamilton, Coryell, Erath
54. Williamson, Lee
55. Travis
  - Place 1
  - Place 2
  - Place 3
  - Place 4
56. Blanco, Hays, Caldwell
57. Kendall, Comal, Guadalupe
58. Wilson, Karnes, Atascosa, Frio, LaSalle, McMullen
59. Denton
60. Tarrant
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
61. Montague, Clay, Archer, Young, Jack
62. Parker, Wise, Hood
63. Palo Pinto, Stephens, Shackelford, Callahan, Eastland
64. Runnels, Coleman, Brown, Comanche
65. McCulloch, San Saba, Lampasas, Burnet, Llano, Gillespie, Mills
66. Mason, Kimble, Kerr, Bandera, Real, Edwards, Sutton, Menard, Schleicher, Crockett, Concho
67. Uvalde, Medina, Zavala, Dimmit
68. Bexar
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
69. Webb, Zapata
70. Jim Wells, Brooks, Jim Hogg, Duval, Starr
71. Maverick, Kinney, Val Verde, Terrell
72. Brewster, Pecos, Crane, Upton, Ward
73. Presidio, Jeff Davis, Reeves, Winkler, Loving, Culberson, Hudspeth
74. El Paso
  - Place 1
  - Place 2
  - Place 3



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

74. El Paso  
Place 4  
Place 5
75. Andrews, Gaines, Dawson, Lynn
76. Ector
77. Midland
78. Martin, Howard, Glasscock, Sterling, Coke, Reagan, Irion
79. Tom Green
80. Mitchell, Nolan, Fisher, Stonewall, Dickens, King
81. Wichita  
Place 1  
Place 2
82. Wilbarger, Foard, Hardeman, Cottle, Motley, Childress, Hall, Donley
83. Knox, Baylor, Haskell, Throckmorton, Jones
84. Taylor  
Place 1  
Place 2
85. Crosby, Garza, Kent, Borden, Scurry
86. Hutchinson, Ochiltree, Lipscomb, Roberts, Hemphill
87. Gray, Wheeler, Collingsworth
88. Lubbock  
Place 1  
Place 2  
Place 3
89. Swisher, Briscoe, Hale, Floyd
90. Cochran, Hockley, Yoakum, Terry
91. Parmer, Castro, Bailey, Lamb, Deaf Smith
92. Oldham, Hartley, Dallam, Sherman, Moore, Hansford
93. Potter  
Place 1  
Place 2
- 94F. Potter, Carson, Randall, Armstrong

Sec. 2. In all Districts composed of only one (1) county, the County Judge of each county shall receive the returns and issue a certificate of election to the Representative elected as shown by the highest number of votes cast for any one person; but in the several Districts composed of more than one (1) county, the County Judge of the county having the largest population as shown by the last preceding Federal Census shall receive the returns and issue a certificate of election to the Representative elected as shown by the highest number of votes for any one person in the District. Acts 1961, 57th Leg., p. 544, ch. 256, §§ 1, 2.

Effective 90 days after May 29, 1961, date of adjournment.

Section 3 of the Act of 1961 provided: "This Act shall become effective for the elections, Primary and General, for all Representatives, from the places herein specified and described, to the Fifty-eighth Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the

membership, personnel or Districts, of the Fifty-seventh Legislature; and provided further, that in case a vacancy occurs in the office of any Representative of the Fifty-seventh Legislature by death, resignation, or otherwise; and a Special Election to fill such vacancy becomes necessary, said election shall be held in the District as it now exists."

## JUDICIAL DISTRICTS

Particular criminal district courts, see  
Vernon's Ann.C.C.P. art. 52 et seq.

## Art. 199. [30] [22] [17] Judicial Districts

## 5. — Bowie and Cass

The 5th Judicial District of Texas shall be composed of the Counties of Bowie and Cass, and the terms of the District Courts within said Counties shall be as follows:

In Bowie County on the first Monday in January of each year and may continue in session for six (6) weeks; on the fourteenth Monday after the first Monday in January, and may continue in session for six (6) weeks; on the thirtieth Monday after the first Monday in January, and may continue in session for six (6) weeks; on the forty-second Monday after the first Monday in January, and may continue for six (6) weeks; provided that during each term of said Court in Bowie County, Texas, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the County Seat at Boston, Texas.

In Cass County beginning on the sixth Monday after the first Monday in January of each year, and may continue in session for eight (8) weeks; on the twentieth Monday after the first Monday in January, and may continue in session for ten (10) weeks; on the thirty-sixth Monday after the First Monday in January, and may continue in session for six (6) weeks; the last four (4) weeks term to begin on the forty-eighth Monday after the first Monday in January above, the Court shall try no cases except nonjury cases and pleas of guilty in criminal cases.

The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 5th District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

The sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Court of the several Counties as herein fixed respectively as though issued and served for such terms and courts returnable to and drawn for the same.

The Commissioners Court of Bowie County is hereby authorized to provide necessary and suitable quarters for the said Court while sitting at Texarkana, Texas. In its discretion said Commissioners Court of Bowie County is further authorized to make such agreements or agreement with

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

the City of Texarkana, Texas, whereby said City will provide necessary and suitable quarters in Texarkana, Texas, for holding said terms of Court at that place.

The District Court of the 5th Judicial District in Bowie and Cass Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law. Said 5th Judicial District Court shall also have concurrent jurisdiction in Bowie County with the 102nd Judicial District Court, and all causes of action of a civil or criminal nature pending in either Court in said County shall, at the adjournment of each term of said Court in which the same is pending, be transferred by operation of law to the other Court; and said Courts, and Judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective Court to the other District Court in said Bowie County by an order entered upon the minutes of their respective Court.

The Judge and all District Officers of the 5th Judicial District as heretofore constituted, shall be the Judge and District Officers of the 5th Judicial District as constituted and reorganized by this Section during the terms for which they were elected. As amended Acts 1961, 57th Leg., p. 400, ch. 202, § 1.

Emergency. Effective May 23, 1961.

### 32. — Nolan, Mitchell and Fisher

After the effective date of this Act the 32nd Judicial District shall be composed of and confined to Nolan, Mitchell, and Fisher Counties, and shall be known as the 32nd Judicial District. The 32nd Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Nolan, Mitchell, and Fisher Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

The terms of the District Court of the 32nd Judicial District shall be as follows:

In Nolan County on the second Monday in January, on the third Monday in April, and on the second Monday in September of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Nolan County.

In Mitchell County on the third Monday in February, May and October of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Mitchell County.

In Fisher County on the second Monday in March, June, and November of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Fisher County. Acts 1961, 57th Leg., p. 365, ch. 184, § 1.

Effective January 1, 1962.

Section 2 of the amendatory Act of 1961 reorganized the 104th Judicial District. See art. 199 (104).

Sections 3-5 of the Act read as follows:

"Sec. 3. All processes issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the Counties as herein fixed as

though issued and served for such terms and returnable to and drawn from the same.

"Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said District shall conform to the requirements of this Act.

"Sec. 5. The District Judge and District Attorney of the 32nd and of the 104th Judicial Districts now elected and acting as such shall continue to hold the offices of District Judge and District Attorney of the 32nd and 104th Judicial Districts respec-

tively in and for the several counties as herein fixed and until the terms for which they have been elected expire and until there have been elected and qualified successors thereto."

37, 45, 57, 73. — Bexar; Special 37th Judicial District; Criminal Judicial District; Criminal Judicial District No. 2

*Designation of Criminal Judicial District Court of Bexar County and Criminal Judicial District Court No. 2 of Bexar County as the 144th and 175th Judicial District Courts, respectively, see 144th District.*

42. — Taylor and Callahan

The 42nd Judicial District of the State of Texas is composed of the Counties of Taylor and Callahan, and the District Courts herein shall hold their terms and sessions as follows:

Said Court shall convene in Taylor County on the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Taylor County; and on the 15th Monday after the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Taylor County; and on the first Monday in September and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Taylor County.

Said Court shall convene in Callahan County on the 8th Monday after the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Callahan County; and on the 22nd Monday after the first Monday in January, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Callahan County; and on the 8th Monday after the first Monday in September, and may continue in session until the date herein fixed for convening of the next regular term of such Court in Callahan County, Texas. Acts 1961, 57th Leg., p. 79, ch. 46, § 2.

Effective September 1, 1961.

Section 1 of the Act of 1961 provided that the 90th Judicial District shall be composed of Stephens, Shackelford and Young counties. See art. 199(90). Sections 3 and 4 read as follows:

"Sec. 3. All process issued, bonds and recognizances made and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the district courts of the several counties as herein fixed as

though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. The District Judge and the District Attorney of the 90th and 42nd Judicial Districts now elected and acting as such shall continue to hold the offices of District Judge and District Attorney of the 90th and 42nd Judicial Districts in and for the several counties as herein fixed and until the terms for which they have been elected expire and until there have been elected and qualified successors thereto."

72. — Crosby and Lubbock

The 72nd Judicial District of Texas shall be composed of the Counties of Crosby and Lubbock. The terms of the District Court shall be held therein each year as follows:

In the County of Crosby, beginning on the second Monday in May and the second Monday in November.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

In the County of Lubbock, beginning on the second Monday in February and the second Monday in August. As amended Acts 1959, 56th Leg., p. 425, ch. 190, § 2.

Emergency. Effective Sept. 1, 1959.

Section 4 of Acts 1959, 56th Leg., p. 425, ch. 190, provided: "The present Judge and District Attorney of the 72nd Judicial District and of the 106th Judicial District shall continue as the Judge and District Attorney of their respective districts as herein reorganized, unless they are disqualified by

the Laws of the State to continue in such office, in which event a successor shall be appointed as provided by law."

Removal of county from one judicial district to another, effect on cases and proceedings on docket, see note under art. 199(121).

#### 90. — Stephens, Shackelford and Young

The Counties of Stephens, Shackelford and Young shall hereafter constitute and be the 90th Judicial District of the State of Texas and the terms of the District Courts shall be held therein each as follows:

In the County of Stephens, on the first Monday in January, April, July and October of each year and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Stephens County.

In the County of Shackelford on the first Monday in February, May, August and November of each year and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Shackelford County.

In the County of Young, on the first Monday in March, June, September and December of each year and may continue in session until the date herein fixed for convening the next regular term of such Court in Young County. Acts 1961, 57th Leg., p. 79, ch. 46, § 1.

Effective September 1, 1961.

Section 2 of the Act of 1961 provided that the 42nd Judicial District shall be composed of Taylor and Callahan Counties. See art. 199(42). Sections 3 and 4 read as follows:

"Sec. 3. All process issued, bonds and recognizances made and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the district courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

"Sec. 4. The District Judge and the District Attorney of the 90th and 42nd Judicial Districts now elected and acting as such shall continue to hold the offices of District Judge and District Attorney of the 90th and 42nd Judicial Districts in and for the several counties as herein fixed and until the terms for which they have been elected expire and until there have been elected and qualified successors thereto."

#### 102. — Bowie and Red River

The 102nd Judicial District of Texas shall be composed of the Counties of Bowie and Red River, Texas, and the terms of District Court in each of said Counties shall be held therein each year as follows:

**BEGINNING:** In Red River County on the first Monday in January, on the fourteenth Monday after the first Monday in January, on the thirtieth Monday after the first Monday in January, and on the forty-second Monday after the first Monday in January; and each term of court in Red River County shall continue until the date set herein for the beginning next succeeding term thereof.

In Bowie County on the sixth Monday after the first Monday in January and may continue in session eight (8) weeks; on the twentieth Monday after the first Monday in January and may continue in session ten (10) weeks; on the thirty-sixth Monday after the first Monday in January and may continue in session six (6) weeks; and on the forty-

eighth Monday after the first Monday in January and may continue in session four (4) weeks.

The Judge of said Court may hold as many sessions in any term of Court in any county as is deemed by him proper and expedient for the dispatch of business; provided that during each term of the Court in Bowie County, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the county seat at Boston, Texas.

The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 102nd Judicial District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes, records and papers to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

The Sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

The 102nd Judicial District Court when sitting at Texarkana, Texas, as herein authorized, shall be authorized to use the facilities in Texarkana, Texas, furnished and provided for the use of the 5th Judicial District Court while sitting there.

The District Court of the 102nd Judicial District in Bowie and Red River Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law.

Said 102nd District Court shall also have concurrent jurisdiction in Bowie County with the 5th Judicial District Court, and all causes of action of a civil nature pending in either Court in said County shall, at the end of each term of such Court in which the same is pending, be transferred by operation of law to the other Court except where the next succeeding term of the 5th District Court will convene before the next term of the 102nd District Court in said County; and said Courts, and the judges thereof, either in termtime or vacation, may transfer any civil or criminal cause pending in their respective Courts to the other District Court in said County by an order entered upon the minutes of their respective Courts.

All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed respectively as though issued and served for such terms and Courts and returnable to and drawn for the same.

The Judge and all District Officers of the 102nd Judicial District as heretofore constituted shall be the Judge and District Officers of the 102nd Judicial District as constituted and reorganized by this Section during the terms for which they each respectively were elected. As amended Acts 1961, 57th Leg., p. 398, ch. 201, § 1.

Emergency. Effective May 23, 1961.

## 104. — Jones and Taylor

The 104th Judicial District of the State of Texas is composed of the Counties of Jones and Taylor, and the District Courts and the terms thereof in said Counties shall be held in said Counties as follows:

Said Court shall convene in Jones County on the first Monday in January of each year, and on the fifteenth Monday after the first Monday in January of each year and on the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of court in said County.

Said Court shall convene in Taylor County on the eleventh Monday after the first Monday in January of each year, and on the twenty-fourth Monday after the first Monday in January of each year and on the ninth Monday after the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of Court in said County.

It shall be the duty of the Commissioners Court of Taylor County to provide in the county courthouse of said County suitable quarters for holding the terms of Court of said 104th Judicial District of Texas, in Taylor County, as well as suitable quarters for the officers of said Court.

The District Clerk of Taylor County shall act as Clerk of the reorganized 104th Judicial District of Texas, in Taylor County, as well as the 42nd Judicial District of Texas, and in filing civil suits, said Clerk shall file same alternately in said two (2) District Courts and in numbering all suits in each of said Courts, said Clerk shall place after all numbers of all suits which are filed after this Act takes effect the letters A or B, so as to distinguish causes pending in said two (2) Courts, placing after the number of all suits filed in said 42nd District Court the capital letter A, and placing after the number of all suits filed in said 104th District Court the capital letter B.

The 42nd Judicial District of Texas and the 104th Judicial District of Texas, and the Courts of said Judicial Districts in and for Taylor County, shall have concurrent civil and criminal jurisdiction with each other in said County in all matters over which jurisdiction is given or shall be hereafter given by the Constitution and laws of this State to district courts. Either of the Judges of said District Courts for Taylor County may in their discretion, in termtime or vacation transfer any case or cases, civil or criminal, to said other District Court by order entered on the minutes of his Court from which said case is transferred or minutes or orders made in chambers as the case may be, which orders, when made, shall be copied and certified to by the District Clerk of Taylor County together with all orders made in said case and such certified copies of such orders, together with the original papers, shall be filed among the papers of any case thus transferred, and the fees thereof shall be taxed as a part of the costs of said suit; and the Clerk of said Court shall docket any such case in the court to which it shall have been transferred, and when so entered the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall be dropped from the docket of the said Court from which it was transferred.

In Taylor County, the District Attorney of the 42nd Judicial District shall represent the State in all criminal cases, including habeas corpus cases, which are tried by the Judge of said 42nd Judicial District, or by any regular or special judge presiding for him in said County. Likewise in said County of Taylor, the District Attorney of the 104th Judicial District shall represent the State in all criminal cases, including habeas corpus cases, which are tried by the Judge of said 104th Judicial District.

or by any regular or special judge presiding for him in said County. Provided that the District Attorney of the 42nd Judicial District may, upon request of the District Attorney of the 104th Judicial District, assist the said District Attorney in the trial of any criminal case or habeas corpus case pending in the District Court of said 104th Judicial District in Taylor County, and likewise the District Attorney of the 104th Judicial District may upon request of the District Attorney for the 42nd Judicial District assist said District Attorney in the trial of any criminal case, or habeas corpus case, pending in the District Court of said 42nd Judicial District in Taylor County, and in all such cases the district attorney assisting shall receive the same compensation for such services as is now provided by law for such services in the district for which he was elected, but nothing herein shall be construed as limiting the authority of the district attorneys of the two (2) districts from having absolute control and management of criminal cases and habeas corpus cases which are tried in their respective courts. Acts 1961, 54th Leg., p. 365, ch. 184, § 2.

Effective Jan. 1, 1962.

Section 1 of the amendatory Act of 1961 reorganized the 32nd Judicial District by adding Fisher County to the district. See art. 199(32) and notes thereunder.

Authority of District Judge and District Attorney of 32nd and 104th Judicial Districts to continue to hold offices until expiration of their terms, see art. 199(32) note.

Duty of courts in session at time amendatory Act of 1961 takes effect to continue in session until expiration of terms, see art. 199(32) note.

Validity of all processes issued, bonds and recognizances made and all grand and petit juries drawn before effective date of 1961 amendment, see art. 199(32) note.

#### 109. — Andrews, Crane and Winkler

Section 1. The terms of the District Court of the 109th Judicial District heretofore created, composed of the counties of Andrews, Crane and Winkler shall, after the effective date of this Act, be as follows:

In the County of Andrews beginning on the second Monday in January and the first Monday in July and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such court in Andrews County.

In the County of Crane beginning on the first Monday in February and the first Monday in August and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of said Court in Crane County.

In the County of Winkler beginning on the first Monday in March and the second Monday in September and may continue in session until 10:00 A.M. on the Monday for convening the next regular term of such Court in Winkler County.

Sec. 2. The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. In any of the counties of the 109th Judicial District, the grand jury may be convened on the first or any subsequent day of the term. The judge shall designate the day on which the grand jury is to be impaneled.

Sec. 4. All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the 109th District Court of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

Sec. 5. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all courts in said district shall conform to the requirements of this Act. Acts 1961, 57th Leg., p. 897, ch. 395.

Effective 90 days after May 29, 1961, date of adjournment.

#### 144, 175. — Bexar

Section 1. That the Criminal Judicial District Court of Bexar County, Texas; heretofore originally created by the terms of H. B. No. 131, Acts of 1933, 43rd Legislature, page 867, Chapter 247, and as now provided for by the terms of H. B. No. 486, Acts of 1957, 55th Legislature, page 1478, Chapter 507, is hereby designated as and shall henceforth be known as the 144th Judicial District Court, the limits of which district shall be coextensive with the limits of Bexar County, Texas.

Sec. 2. That the Criminal Judicial District Court No. 2 of Bexar County, Texas, heretofore originally created as a permanent district court under the terms of S. B. No. 395, Acts of 1955, 54th Legislature, page 730, Chapter 262, and as now provided for by the terms of H. B. No. 486, Acts of 1957, 55th Legislature, page 1478, Chapter 507, is hereby designated as and shall henceforth be known as the 175th Judicial District Court, the limits of which district shall be coextensive with the limits of Bexar County, Texas.

Sec. 3. The present District Judges of the Criminal Judicial District Court of Bexar County, Texas, and the Criminal Judicial District Court No. 2 of Bexar County, Texas, duly elected and acting as such shall be the District Judges of the 144th Judicial District Court and the 175th Judicial District Court of Bexar County, Texas, respectively until the time for which they have been elected expires and until their successors are duly elected and qualified, as provided for by the Constitution and the laws of this state.

Sec. 4. All appropriations heretofore made or hereafter made for the payment of the salaries and the expenses of the judges of the Criminal Judicial District Court of Bexar County, Texas, and the Criminal Judicial District Court No. 2 of Bexar County, Texas, respectively, shall be made available for the payment of the salaries of the judges of the 144th Judicial District Court and the 175th Judicial District Court of Bexar County, Texas, respectively.

Sec. 5. Each of the said District Courts shall have an official seal as provided by law for District Courts. Acts 1961, 57th Leg., p. 38, ch. 24.

Effective 90 days after May 29, 1961, date of adjournment.

#### 150. — Bexar

*Designation of Criminal Judicial District Court of Bexar County and Criminal Judicial District Court No. 2 of Bexar County, as the 144th and 175th Judicial District Courts, respectively, see 144th District.*

#### 175. — Bexar. See 144th District, ante

## ADMINISTRATIVE JUDICIAL DISTRICTS

## Art. 200a. Administrative Judicial Districts

Annual meetings of presiding judges; assignments for services  
in other districts; compensation

Sec. 2a. (1) The Chief Justice of the Supreme Court of Texas shall call and preside over an annual meeting of the Presiding Judges of the Administrative Judicial Districts, on a date and at a time and place designated by him, within the State of Texas, and he shall have the power and authority to call and convene such additional meetings of the Presiding Judges as he may deem necessary for the promotion of the orderly and efficient administration of justice. The expenses of the Presiding Judges attending such meetings shall be paid in the manner prescribed in Sections 8 and 9 of this Act.

(2) At such meetings of the Presiding Judges, the statistics reflecting the condition of the dockets of the various courts of the State shall be studied for the purpose of determining the need for the assignment of judges under this Act; the local Rules of Court shall be compared for the purpose of achieving uniformity thereof insofar as practicable consistent with existing local conditions; and uniformity in the administration of this Act in the various Administrative Judicial Districts shall be considered and efforts made to promote more effective administration of justice through the use of this Act.

(3) In addition to the method set forth in this Act for the assignment of judges by the Presiding Judges of the Administrative Judicial Districts, the Chief Justice shall have the power to designate and assign judges of one or more Administrative Judicial Districts for service in other Administrative Judicial Districts whenever he deems such assignment necessary to the prompt and efficient administration of justice. Judges so assigned by the Chief Justice shall perform all the duties and functions authorized in this Act the same as if they had been so designated and assigned by the Presiding Judges of the Administrative Judicial Districts.

(4) In addition to, and cumulative of, all other compensation and expenses authorized by law and this Act, judges who are required to hold court outside their own districts and out of their own counties under the provisions of this Act, shall receive a per diem of Twenty-five (\$25.00) Dollars for each day, or fraction thereof, which they spend outside their said districts and counties in the performance of their duties; such additional compensation to be paid in the same manner as their salaries are paid by the State upon certificates of approval by the Chief Justice or by the Presiding Judge of the Administrative Judicial District in which they reside. Added Acts 1961, 57th Leg., p. 975, ch. 423, § 1.

Effective 90 days after May 29, 1961, date  
of adjournment.

## TITLE 11A—ASSIGNMENTS, IN GENERAL

Art. 260—1. Accounts and accounts receivable; notices; records

*Repeal of fee provisions, see Art. 3930a, note.*

## TITLE 14—ATTORNEYS AT LAW

Art. 307B. Military or Merchant Marine Service; exemption from examination in subjects passed prior to

Law Licenses shall be granted without requirements of passage of the State Bar Examination as to any subject or subjects which the candidate has satisfactorily passed prior to entering the Military Service or Merchant Marine Service of the United States in any law school situated within this State which is on the approved list of the Supreme Court of Texas, provided such applicants are graduates of such law schools, provided such candidate has been a citizen of Texas for at least one (1) year prior to the passage of this Act, and has served at least two (2) years in the Military Service or Merchant Marine Service of the United States. Such candidate must have been honorably discharged or released from active Military Service and must have the character requirements prescribed by the Rules of the Supreme Court of Texas. Such candidate shall file with his application for license a certified copy of his honorable discharge or release from active Military Service or Merchant Marine Service of the United States. Such application shall be filed with the clerk of the Supreme Court of Texas not later than six (6) months after such candidate graduates from one of the approved law schools. Military Service or Merchant Marine Service shall include service in all branches of the Army, Navy, and other Military Forces or Merchant Marine Service of the United States, including Auxiliary Service during World War II or during national emergency as declared by Congress or the President of the United States. As amended Acts 1961, 57th Leg., p. 1137, ch. 515, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

## 1. DISTRICT ATTORNEYS

- Art.  
325b. Supplemental salaries for district attorneys of thirty-first and eighth judicial districts [New].
- 326k—36a. Forty-seventh judicial district; salary of district attorney, etc. [New].
- 326k—38a. Forty-ninth judicial district; compensation of district attorney; assistant district attorney; special investigators; stenographers [New].
- 326k—44. District attorney for Borden county; representation of state in criminal cases before county court [New].

- Art.  
326k—45. Twenty-fourth judicial district; compensation of district attorney; stenographer [New].
- 326k—46. Thirty eighth and second thirty eighth judicial districts; supplemental salary of district attorneys [New].
- 326k—47. Twenty third judicial district; supplemental salary of district attorney [New].

## 2. COUNTY ATTORNEYS

- 331j. Secretary to county attorney in counties of 20,385 to 20,475; employment; salary [New].

## 1. DISTRICT ATTORNEYS

## Art. 324. Assistant District Attorneys, Special Investigators and stenographers in certain counties

Employment of special counsel in counties of more than 500,000 population, see art. 2372p.

## Art. 325b. Supplemental salaries for district attorneys of thirty-first and eighth judicial districts

The District Attorney of the 31st Judicial District or the 8th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising such Districts, or any one or more of such Commissioners Courts; providing, however, that the total salary of each of such District Attorneys shall not be supplemented to exceed the salary paid to the highest paid County Attorney of any county in the said 31st Judicial District or the said 8th Judicial District or the sum of Eleven Thousand Dollars (\$11,000), whichever is highest. The Commissioners Courts of the counties comprising said Districts, or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above. Acts 1961, 57th Leg., p. 524, ch. 251, § 1.

Emergency. Effective May 27, 1961.

Compensation of district attorneys, see art. 3386f.

Powers and duties of commissioners courts, see art. 2351.

## Title of Act:

An Act authorizing the Commissioners Courts of the counties of the 31st Judicial District and the 8th Judicial District to supplement the salary of the District Attorneys of the 31st Judicial District and the 8th Judicial District; and declaring an emergency. Acts 1961, 57th Leg., p. 524, ch. 251.

## Art. 326k—19. Stenographer in districts of two or more counties

(a) Any District Attorney in the State of Texas in a judicial district containing two (2) or more counties is authorized to employ a stenographer

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

or clerk who may receive a salary not to exceed Three Thousand Dollars (\$3,000) per annum, to be fixed by the District Attorney and approved by the combined majority of the Commissioners Courts of the counties composing his judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the judicial district, prorated apportionately to the population of the county.

(b) The Commissioners Court in each county of each judicial district affected by this Act may enter an order so as to increase the compensation being paid by the county to such stenographer in an amount not to exceed thirty-five per cent (35%) of the sum being paid at the effective date of this Act. As amended Acts 1961, 57th Leg., p. 710, ch. 335, § 1.

Emergency. Effective June 16, 1961.

#### Art. 326k—28. Criminal District Attorney for Galveston County

##### Commission; compensation

Sec. 4. The Criminal District Attorney of Galveston County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following, and no more: A salary of Five Hundred Dollars (\$500) from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys, and the sum of not less than Ten Thousand Two Hundred Dollars (\$10,200) per annum nor more than Fourteen Thousand Five Hundred Dollars (\$14,500) per annum to be paid out of the officers salary fund of Galveston County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund. As amended Acts 1961, 57th Leg., p. 332, ch. 178, § 1.

##### Assistants, investigators, and stenographers

Sec. 5. The Criminal District Attorney of Galveston County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one (1) first assistant and fix his salary as follows: Said first assistant shall receive not less than Eight Thousand Four Hundred Dollars (\$8,400) per annum nor more than Eight Thousand Eight Hundred Dollars (\$8,800) per annum. The Criminal District Attorney of Galveston County, Texas, shall be and he is hereby authorized to appoint four (4) additional assistants in addition to the first assistant and fix their salaries as follows: Two (2) of said additional assistants shall receive not less than Six Thousand Nine Hundred Dollars (\$6,900) per annum nor more than Seven Thousand Three Hundred Dollars (\$7,300) per annum, and two (2) assistants shall receive not less than Six Thousand One Hundred Eighty Dollars (\$6,180) per annum nor more than Six Thousand Five Hundred Eighty Dollars (\$6,580) per annum.

The Criminal District Attorney of Galveston County may employ three (3) secretaries and pay said employees not less than Three Thousand Six Hundred Dollars (\$3,600) per annum nor more than Three Thousand Nine Hundred Dollars (\$3,900) per annum. All of the salaries mentioned in this Section shall be payable from the officers salary fund, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

In addition to the salaries provided the Criminal District Attorney, and his assistants, the Commissioners Court of Galveston County may al-

low such Criminal District Attorney and his assistants such necessary expenses as within the discretion of the court seem reasonable and said expenses shall be paid as provided by law for such other claims of expenses. As amended Acts 1961, 57th Leg., p. 332, ch. 178, § 1.

Emergency. Effective May 17, 1961.

**Art. 326k—36a.** Forty-seventh judicial districts; salary of district attorney, etc.

Section 1. The District Attorney of the Forty-seventh Judicial District of this State shall be paid a salary in an amount not to exceed Twelve Thousand Dollars (\$12,000) per year. The First Assistant District Attorney of said Forty-seventh Judicial District shall receive a salary not to exceed Ten Thousand Dollars (\$10,000) per year; and the Second Assistant District Attorneys in said District shall receive salaries not to exceed Eight Thousand Dollars (\$8,000) a year.

Sec. 2. The Commissioners Court of Potter County, Texas, in said Forty-seventh Judicial District, is hereby authorized at its discretion to pay the salaries, or part thereof, of the assistants as provided in Section 1 of this Act, and to supplement the salary of the District Attorney paid by the State of Texas in such an amount that the total salary paid shall not exceed the maximum provided for in Section 1 hereof. Nothing herein shall affect the present law relating to the manner of selecting, determining the number, and fixing the amount of salaries to be paid the First Assistant District Attorney, and the Second Assistant District Attorneys except as herein provided. Any supplements or increases in salary authorized hereunder shall be paid exclusively through the funds of the counties involved, and no such supplements or increases shall ever be charged on the State of Texas. Acts 1961, 57th Leg., p. 751, ch. 348.

Emergency. Effective June 16, 1961.

**Art. 326k—38.** Repealed. Acts 1961, 57th Leg., p. 11, ch. 7, § 6. Eff. Feb. 23, 1961

Subject matter is now covered by art. 326k—38a.

**Art. 326k—38a.** Forty-ninth judicial district; compensation of district attorney; assistant district attorney; special investigators; stenographers

District attorney; compensation; supplemental salary

Section 1. The District Attorney of the 49th Judicial District may be paid a salary, at the discretion of the Commissioners Court, in an amount not to exceed Three Thousand, Six Hundred Dollars (\$3,600.) per annum by the County of Webb for the handling and prosecution of all misdemeanor cases in Webb County, and the Commissioners Court of Webb County is hereby authorized to pay said salary, in supplementation of the salary paid by the state, in equal monthly payments out of the county funds by warrants drawn on such county funds.

Assistant district attorney; appointment; qualifications; oath; salary; removal

Sec. 2. Said District Attorney is hereby authorized to appoint one (1) Assistant District Attorney for Webb County, provided that the District Attorney shall furnish data to the County Judge of Webb County that he is in need of an Assistant and that it is necessary and to the best

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

interests of the state and said county that an Assistant District Attorney be appointed. Said Assistant District Attorney so appointed shall be a qualified resident of Webb County and shall give bond and take the official oath; and said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney in Webb County under the laws of this state. Said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one (1) month. Said Assistant District Attorney shall be paid by Webb County for the time of actual service rendered at a rate not to exceed Six Thousand Dollars (\$6,000.) per annum, in twelve (12) equal monthly installments out of the county funds by warrants drawn upon such county funds. The District Attorney of said district, at any time he deems said Assistant unnecessary or finds that he is not attending to his duties as required by law, may remove said person from office by giving written notice to the Assistant and to the County Judge to that effect.

**Part-time assistants; special investigators; salaries; powers; removal**

Sec. 3. Said District Attorney is hereby authorized to appoint two (2) part-time assistants or one (1) full-time assistant to serve in Webb County, in addition to his regular assistant, provided for in this Act, which assistants need not be licensed to practice law. Said assistants shall be known as Special Investigators, and shall perform such duties as may be assigned to them by the District Attorney. The part-time assistants shall each receive as compensation a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600.) per annum, or if a full-time assistant is appointed, he shall receive as compensation a salary not to exceed Five Thousand Dollars (\$5,000.) per annum, payable monthly out of the county funds by warrants drawn on such county funds.

Said Special Investigators shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. They shall serve at the will of the District Attorney and may be removed from office by written notice by the District Attorney to the Special Investigator concerned and to the County Judge to that effect.

**Stenographer—secretary; appointment; salary**

Sec. 4. The District Attorney is hereby authorized to appoint one (1) Stenographer-Secretary, who shall keep the records of the District Attorney's Office and perform the necessary stenographic and secretarial work, as may be assigned to such person by the District Attorney, and who shall receive as compensation a salary not to exceed Four Thousand, Two Hundred Dollars (\$4,200.) per annum, payable monthly out of the county funds by warrants drawn on such county funds.

**Supplemental salary of district attorney**

Sec. 5. The Commissioners Court of Webb County is hereby authorized to pay the salaries provided in Sections 2, 3, and 4 of this Act and to supplement the salary of the District Attorney of the 49th Judicial District, paid by the State of Texas, in the amount set out in Section 1 hereof. The salaries of the Assistant District Attorney, the Special Investigators, and the Stenographer-Secretary shall be fixed by the Commissioners Court, in its discretion. Acts 1961, 57th Leg., p. 11, ch. 7.

Emergency. Effective Feb. 23, 1961.

Sec. 6 of the Act of 1961, repealed in parts of laws to the extent of such conflict. Article 326k—38 and all conflicting laws and

**Art. 326k—39.** Repealed. Acts 1961, 57th Leg., p. 1026, ch. 452, § 1. Effective 90 days after May 29, 1961, date of adjournment

**Art. 326k—40.** District attorney of Thirtieth Judicial District; salaries of investigators, assistants and stenographers

Section 1. From and after the effective date of this Act, the salaries of each investigator or assistant of the District Attorney of the 30th Judicial District shall be determined by the Commissioners Court of Wichita County, Texas. However, the salary of an investigator or assistant of the District Attorney of the 30th Judicial District shall not exceed Six Thousand, Five Hundred Dollars (\$6,500) per annum. As amended Acts 1961, 57th Leg., p. 126, ch. 69, § 1.

Sec. 2. From and after the effective date of this Act, the District Attorney of the 30th Judicial District is hereby authorized to appoint one (1) or more stenographers, and to compensate such stenographers at such sum to be determined by the Commissioners Court of Wichita County, Texas; so long as the salary to be paid each stenographer of the District Attorney of the 30th Judicial District shall not exceed Four Thousand, Eight Hundred Dollars (\$4,800) per annum. As amended Acts 1961, 57th Leg., p. 126, ch. 69, § 1.

Emergency. Effective April 10, 1961.

**Art. 326k—41a.** One hundred and twenty-first judicial district; investigators or assistants; stenographers

The District Attorney of the 121st Judicial District, with the consent of the District Judge of the 121st Judicial District and the combined majority of the Commissioners Courts of the counties composing the 121st Judicial District, is hereby authorized to appoint not more than two (2) investigators or assistants. Such investigators or assistants shall receive a salary of not less than Three Thousand Dollars (\$3,000) and not to exceed Four Thousand Dollars (\$4,000) per annum each. The salaries shall be fixed by the Commissioners Courts of the several counties composing the 121st Judicial District. The assistants to the District Attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be licensed attorneys. The investigators or assistants provided for in this Act shall be allowed a reasonable amount for expenses not to exceed Twelve Hundred Dollars (\$1,200) per annum. The District Attorney of the 121st Judicial District shall be authorized to employ a stenographer, who shall receive a salary not to exceed Thirty-three Hundred Dollars (\$3,300) per annum. The salary of the investigators, assistants, and stenographer provided for in this Act and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the 121st Judicial District out of the Officers' Salary Fund of the county. Such salary and expenses shall be prorated according to the population of the respective counties. Acts 1959, 56th Leg., p. 425, ch. 190, § 8, as amended Acts 1961, 57th Leg., p. 25, ch. 15, § 1.

Emergency. Effective March 6, 1961.

Creation of the 121st judicial district, see art. 199(121).

**Art. 326k—44.** District attorney for Borden county; representation of state in criminal cases before county court

Until a resident County Attorney is elected and qualified in Borden County, the District Attorney for Borden County shall represent the State



63 ATTORNEYS—DISTRICT AND COUNTY Art. 326k—45

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

in all criminal cases before the County Court of Borden County, Texas. The County Commissioners Court of Borden County shall supplement the salary of the District Attorney for Borden County, and may pay his reasonable and necessary expenses in connection with his duties in Borden County. Acts 1961, 57th Leg., p. 209, ch. 107, § 1.

Emergency. Effective May 5, 1961.

Assistant district attorneys in counties having no county attorney, see art. 326g.

District attorney for Roberts County, representation of state in criminal cases before county court, see art. 326k—42.

Duties of county attorneys, see Const. art. 5, § 21; Vernon's Ann.C.C.P. art. 26.

Title of Act:

An Act relating to the representation of the State by the District Attorney for Borden County in all criminal cases before the County Court of Borden County; providing for supplemental compensation by the Commissioners Court; and declaring an emergency. Acts 1961, 57th Leg., p. 209, ch. 107.

Art. 326k—45. Twenty-fourth judicial district; compensation of district attorney; stenographer

District attorney; supplemental salary

Section 1. The District Attorney of the 24th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising such District, in the manner specified in succeeding Sections of this Act; provided, however, that the total salary of such District Attorney shall not be supplemented to exceed an annual salary of Ten Thousand Dollars (\$10,000).

Authority of commissioners courts

Sec. 2. The Commissioners Courts of the counties comprising the 24th Judicial District are hereby authorized to pay in equal monthly payments the supplement to the salary paid the District Attorney by the State of Texas in such amounts that the total salary paid the District Attorney shall not exceed the maximum prescribed in Section 1 of this Act.

Payment on pro rata basis

Sec. 3. The supplemental salary to be paid the District Attorney of the 24th Judicial District by the Commissioners Courts of the counties comprising such District shall be paid on a pro rata basis according to the population of each county as determined by the last preceding Federal Census.

Stenographer; appointment; salary

Sec. 4. The District Attorney of the 24th Judicial District of Texas is hereby authorized to appoint a Stenographer who shall receive a salary not to exceed Four Thousand Dollars (\$4,000) per annum. Said salary shall be fixed and determined by the District Attorney of said Judicial District, and the District Attorney shall file with the Commissioners Court of each County in said District a statement specifying the amount of salary to be paid said Stenographer. Said salary shall be paid monthly by the Commissioners Court of each County comprising said District in the manner and on the same pro rata basis as that contained in the order of the District Judge of such Districts for the payment of the salary of the official shorthand reporter.

The Commissioners Court of the County in which the District Attorney resides shall furnish the District Attorney with adequate office space

and the supplies necessary to the efficient operation of said office. Acts 1961, 57th Leg., p. 671, ch. 310.

Emergency. Effective June 14, 1961.

**Title of Act:**

An Act to provide that the District Attorney of the 24th Judicial District shall be compensated not to exceed Ten Thousand Dollars (\$10,000); providing that the

Stenographer of such Judicial District shall be compensated not to exceed Four Thousand Dollars (\$4,000); and declaring an emergency. Acts 1961, 57th Leg., p. 671, ch. 310.

**Art. 326k—46. Thirty eighth and second thirty eighth judicial districts; supplemental salary of district attorneys**

The District Attorneys of the 38th Judicial District and of the Second 38th Judicial District shall be compensated for their services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the State, and in addition their salaries may be supplemented by the Commissioners Courts of the Counties comprising the 38th Judicial District and of the Second 38th Judicial District or any one or more of such Commissioners Courts; providing, however, that the total salary of such District Attorneys shall not be supplemented to exceed the sum of Eleven Thousand Dollars (\$11,000) per annum. The Commissioners Courts of the Counties comprising the 38th Judicial District and the Second 38th Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above. Acts 1961, 57th Leg., p. 759, ch. 350, § 1.

Effective 90 days after May 29, 1961,  
date of adjournment.

**Art. 326k—47. Twenty third judicial district; supplemental salary of district attorney**

Section 1. The District Attorney of the 23rd Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the District of the District Attorney of the 23rd Judicial District, so that the total salary of the District Attorney of the 23rd Judicial District may be the sum of Twelve Thousand Dollars (\$12,000.00) per annum.

Sec. 2. The Commissioners Courts of the counties comprising the District of the District Attorney of the 23rd Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 23rd Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

Sec. 3. The supplemental salary to be paid the District Attorney of the 23rd Judicial District by the Commissioners Courts of the counties comprising the District of said District Attorney shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census. Acts 1961, 57th Leg., 1st C. S., p. 129, ch. 26.

Emergency. Effective Aug. 18, 1961.

**Title of Act:**

An Act authorizing the Commissioners Courts of the counties of the District of the District Attorney of the 23rd Judicial

District to supplement the salary of the District Attorney of the 23rd Judicial District; and declaring an emergency. Acts 1961, 57th Leg., 1st C.S., p. 129, ch. 26.

**2. COUNTY ATTORNEYS****Art. 331. [347] [281] Assistants**

Employment of special counsel in counties of more than 500,000 population, see art. 2372p.

**Art. 331j. Secretary to county attorney in counties of 20,385 to 20,475; employment; salary**

The Commissioners Court of any county having a population of more than twenty thousand, three hundred eighty-five (20,385) individuals and less than twenty thousand, four hundred seventy-five (20,475) individuals, according to the last preceding Federal Census, may employ a secretary to the county attorney and fix the salary for such secretary at a sum not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum. The salary shall be paid out of the Officers' Salary Fund of the county in twelve (12) equal monthly installments. Acts 1961, 57th Leg., p. 1175, ch. 530, § 1.

Emergency. Effective June 17, 1961.

Tex.St.Supp.1962—5

**TITLE 16—BANKS AND BANKING**

**TEXAS BANKING CODE OF 1943**

**CHAPTER ONE—SCOPE OF ACT, DEFINITIONS, FINANCE  
COMMISSION AND STATE BANKING BOARD**

**Art. 342—104. Finance Commission—Sections—Qualifications of Mem-  
bers**

Four (4) members of the Banking Section shall be active bankers who shall have had not less than five (5) years executive experience next preceding their appointment in a state bank in a capacity not lower than cashier. Two (2) members of the Building and Loan Section shall be practical building and loan executives who shall have had not less than five (5) years full time employment experience in a State Building and Loan or Federal Savings and Loan Association in a capacity not lower than secretary next preceding their appointment. Provided that experience as Commissioner, Deputy Commissioner, Departmental Examiner, or Examiner shall be deemed banking experience, and experience as Building and Loan Supervisor or Building and Loan Examiner shall be deemed building and loan experience, within the meaning of this Article. Further provided, that the Banking Section shall at all times consist of one (1) member, who is an officer in a state bank which, at the time of his appointment, had a capital and certified surplus not exceeding One Hundred Thousand Dollars (\$100,000); two (2) members, each of whom is an officer of a state bank which, at the time of their appointment, had a capital and certified surplus exceeding One Hundred Thousand Dollars (\$100,000) but not exceeding Four Hundred Thousand Dollars (\$400,000); and one (1) member, who is an officer in a state bank, which, at the time of his appointment, had a capital and certified surplus exceeding Four Hundred Thousand Dollars (\$400,000). The Building and Loan Section shall at all times consist of one (1) member who is a full time employed executive in a state association which, at the time of his appointment, had gross assets not exceeding Seven Million, Five Hundred Thousand Dollars (\$7,500,000), and one (1) member who is a full time employed executive in a state association which, at the time of his appointment, had gross assets exceeding Seven Million, Five Hundred Thousand Dollars (\$7,500,000). Two (2) members of the Banking Section and one (1) member of the Building and Loan Section shall be selected by the Governor upon the basis of recognized business ability. As amended Acts 1961, 57th Leg., p. 1004, ch. 437, § 1.

Effective 90 days after May 29, 1961, date  
of adjournment.

**CHAPTER TWO—THE BANKING DEPARTMENT OF TEXAS**

**Art. 342—205. Savings and Loan Department—Savings and Loan Com-  
missioner—Powers and Duties**

(a) By and with the advice and consent of the Senate, the Finance Commission of Texas, by at least five (5) affirmative votes, two (2) of which must be by members of the Building and Loan Section, shall

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

elect a Savings and Loan Commissioner who shall serve at the pleasure of the Finance Commission and who shall be an employee of said Commission and subject to its orders and direction. The Savings and Loan Commissioner shall have had not less than five (5) years practical experience within the ten (10) years prior to his election in the executive management of a savings and loan association doing business in this State, provided that experience as Building and Loan Supervisor, Deputy Building and Loan Supervisor, or Building and Loan Examiner shall be deemed savings and loan experience within the meaning of this Section. The Savings and Loan Commissioner shall receive such compensation as is fixed by the Finance Commission but not in excess of that paid the Governor and such compensation shall be paid from funds of the Savings and Loan Department.

(b) The Savings and Loan Commissioner, subject to the approval of the Building and Loan Section of the Finance Commission, shall appoint a Deputy Savings and Loan Commissioner, having the same qualifications as are required of the Savings and Loan Commissioner, who shall during the absence or inability of the Savings and Loan Commissioner be vested with all of the powers and perform all of the duties of the Savings and Loan Commissioner. The Savings and Loan Commissioner shall also appoint Savings and Loan Examiners in the manner now provided by law. The Deputy Savings and Loan Commissioner, the Savings and Loan Examiners and all other officers and employees of the Savings and Loan Department shall receive such compensation as is fixed by the Finance Commission which shall be paid from funds of the Savings and Loan Department.

(c) The Savings and Loan Commissioner, the Deputy Savings and Loan Commissioner, each Savings and Loan Examiner, and every other officer and employee of the Savings and Loan Department specified by the Finance Commission, shall, before entering upon the duties of his office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars (\$10,000), payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Each bond required under this Article shall be in the form approved by the Finance Commission. The premiums for such bonds shall be paid out of funds of the Savings and Loan Department.

(d) Upon the appointment and qualification of a Savings and Loan Commissioner under this Act such Savings and Loan Commissioner shall in person or by and through the Deputy Savings and Loan Commissioner, Savings and Loan Examiners, or other officers of the Savings and Loan Department, supervise and regulate, in accordance with the rules and regulations promulgated by the Savings and Loan Commissioner together with the Building and Loan Section of the Finance Commission, all savings and loan associations doing business in this State (except Federal Savings and Loan Associations organized and existing under Federal Law), and he shall have and perform all of the duties and shall exercise all of the powers theretofore imposed upon the Banking Commissioner and upon the Building and Loan Supervisor under and by virtue of the laws of this State with reference to savings and loan associations, and the Banking Commissioner shall be relieved of all responsibility and authority relating to the granting of charters and the regulation and supervision of such associations.

(e) The rule-making power of the Savings and Loan Commissioner and the Building and Loan Section of the Finance Commission shall not be exercised unless notice of the terms or substance of the proposed rule or regulation or amendment to existing rules or regulations has been given to all associations subject to regulation hereunder by certified mail; and, if within twenty (20) days after issuance of such notice, as many as five (5) associations request a hearing on such proposal, a public hearing shall be called by the Savings and Loan Commissioner at which any interested party may present evidence or argument relating to such proposal. After consideration of any relevant matter available from the files and records of the Banking Department or presented at any such hearing, any rule, regulation or amendment approved and adopted pursuant to such hearing shall be promulgated in written form and the effective date thereof fixed by the order of adoption and promulgation.

(f) The position of Building and Loan Supervisor is hereby abolished as of the effective date of this Act.

(g) The Savings and Loan Commissioner may call special meetings of the Building and Loan Section of the Finance Commission, and he shall preside at all meetings of the Building and Loan Section of the Finance Commission, but he shall not vote except in the case of a tie or when his vote is necessary for effective action; provided, however, that the Banking Commissioner shall preside at all meetings of the entire Finance Commission except as otherwise provided by law.

(h) The Savings and Loan Commissioner shall collect all fees, penalties, charges and revenues required to be paid by savings and loan associations and shall from time to time as directed by the Finance Commission submit to such Commission a full and complete report of the receipts and expenditures of the Savings and Loan Department, and the Finance Commission may from time to time examine the financial records of the Savings and Loan Department or cause them to be examined. In addition, the Savings and Loan Department shall be audited from time to time by the State Auditor in the same manner as other State departments, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Savings and Loan Department. Notwithstanding anything to the contrary contained in any other law of this State, all fees, penalties, charges and revenues collected by the Savings and Loan Department from every source whatsoever shall be retained and held by said Department, and no part of such fees, penalties, charges and revenues shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Savings and Loan Department shall be paid only from such fees, penalties, charges and revenues, and no such expense shall ever be a charge against the funds of this State or the funds of the Banking Department. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties, charges and revenues of the Savings and Loan Department shall be expended; and the Finance Commission shall, as of December 31, 1961, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Savings and Loan Department for each calendar year and shall within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to Savings and Loan Associations. The Finance Commission shall promulgate and adopt such rules and regulations as may be necessary to

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

coordinate the operation of the Savings and Loan Department with the operation of the Banking Department.

(i) Insofar as the provisions of this Section may conflict with any other provisions of The Texas Banking Code of 1943, as amended, or Senate Bill No. 111, Acts 1929, Forty-first Legislature, page 100, Chapter 61, as amended, the provisions of this Act shall control; except that the terms "savings and loan" and "savings and loan association" as used herein are intended to and shall have the same meaning as the terms "building and loan" and "building and loan association" as used in said Statutes. As amended Acts 1961, 57th Leg., p. 393, ch. 198, § 2.

Effective September 1, 1961.

Section 1 of the amendatory act of 1961 provided: "The purpose of this Act is to create a Savings and Loan Department of Texas, such Department to be composed of a Savings and Loan Commissioner and such deputies, examiners and other officers and employees as may be authorized by the

Finance Commission of Texas; and to make such changes in the Texas Banking Code of 1943 as are necessary to accomplish the purpose of this Act."

Banking commissioner, investigation of proposed building and loan associations, see art. 381a—2.

### CHAPTER THREE—INCORPORATION, MERGER, REORGANIZATION, PURCHASE OF ASSETS OF ANOTHER BANK, DISBURSING AGENT, AMENDMENT OF ARTICLES OF ASSOCIATION OF STATE BANKS, AND CONVERSION

#### Art. 342—301. Powers

Subject to the provisions of this Code, five (5) or more persons, a majority of whom are residents of this state, may incorporate a state bank, with any one or more of all the following powers:

(a) To receive time and demand deposits at interest or without interest; to lend money with or without security at interest; and to buy, sell and discount bonds, negotiable instruments and other evidences of indebtedness;

(b) To act as fiscal agent or transfer agent and in such capacity to receive and disburse money and to transfer registered and countersigned certificates of stock, bonds or other evidences of indebtedness;

(c) To act as trustee under any mortgage or bond issue and to accept and execute any trust not inconsistent with the laws of this state;

(d) To act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator and, although without general depository powers, as depository for any moneys paid into court;

(e) To purchase, invest in, and sell bills of exchange, bonds, mortgages and other evidences of indebtedness, and to lend money and to charge and collect interest thereon in advance or otherwise;

(f) To receive savings deposits with or without the payment of interest;

(g) To receive time deposits with or without the payment of interest;

(h) To issue, sell and negotiate notes, bonds and other evidences of indebtedness, and, in addition, to issue and sell, for cash or on an installment basis, investment certificates, creating no relation of debtor and creditor between the bank and the holder, to be retired solely out of specified surplus, reserves, or special retirement account, and containing such provisions relative to yield, retirement, penalties, withdrawal values, and obligations of the issuing bank as may be approved by the Commissioner.

A state bank shall have all incidental powers necessary to exercise its specific powers. As amended Acts 1961, 57th Leg., p. 44, ch. 30, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Corporate fiduciary, definition, see V.A. T.S. Probate Code, § 3(d).

Inapplicability of Acts 1957, 55th Leg., p. 1162, ch. 388 to corporations acting only as attorneys-in-fact for reciprocal or inter-

insurance exchanges, see note under V.A. T.S. Insurance Code, arts. 7.01 to 7.18.

Title insurance companies, transfer of fiduciary business to state banks, see V. A.T.S. Insurance Code, art. 9.01—1.

Trustees, powers, duties and responsibilities, see 7425b—25.

### CHAPTER NINE—GENERAL PROVISIONS

#### Art. 342—902. Unauthorized Banking—Advertising—Private Banks— Penalty

Appointment and service of foreign banks and trust companies in fiduciary capacity, see V.A.T.S. Probate Code, § 105a.



## TITLE 19—BLUE SKY LAW—SECURITIES

## Art. 581—22. Advertising

A. It shall be unlawful and punishable with the penalties set forth in Section 29H<sup>1</sup> of this Act for any person to issue, distribute, or publish, within this State, any circular, advertisement, pamphlet, prospectus, program or other matter, as to any security, unless such advertising complies with the requirements hereinafter set forth in this Section 22<sup>2</sup>; in addition, the State and purchasers shall have all other remedies provided for where the unlawful sales are made under this Act.<sup>3</sup> As amended Acts 1961, 57th Leg., p. 1047, ch. 466, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

## Art. 581—29. Penal Provisions

Any person who shall:

A. Sell, offer for sale or delivery, solicit subscriptions or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities without being a registered dealer or salesman or agent as in this Act<sup>1</sup> provided shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment in the penitentiary for not more than ten (10) years, or by both such fine and imprisonment.

B. Sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after September 6, 1955, unless said security or securities have been registered or granted a permit as provided in Section 7<sup>2</sup> of this Act, shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment in the penitentiary for not more than ten (10) years, or by both such fine and imprisonment.

C. Engaged in any fraud or fraudulent practice in the sale, offering for sale or delivery of, invitation of offers, or dealing in any other manner in any security or securities shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment in the penitentiary for not more than ten (10) years, or by both such fine and imprisonment.

D. Sell or offer for sale any security or securities named or listed in a notice in writing given him by the Commissioner under the authority of Section 23A<sup>3</sup> of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000) or imprisonment in the penitentiary for not more than two (2) years, or by both such fine and imprisonment.

E. Knowingly make any false statement of fact in any: (a) statement or matter of information required by this Act to be filed with the Commissioner; (b) in any advertisement, prospectus, letter, telegram, circular, or other document containing an offer to sell or to dispose of, or in or by verbal or written solicitation to purchase, or in any commendatory matter concerning any securities, with intent to aid in the disposal or purchase of the same shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000) or imprisonment in the penitentiary for not more than two (2) years, or by both such fine and imprisonment.

F. Knowingly make any false statement or representation concerning any registration made under the provisions of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000) or imprisonment in the penitentiary for not more than two (2) years, or by both such fine and imprisonment.

G. Knowingly participate in declaring, issuing or paying cash dividends by or for any person or company out of any fund other than the actual earnings of such person or company or from the lawful liquidation of the business thereof, shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000) or imprisonment in the penitentiary for not more than two (2) years, or by both such fine and imprisonment.

H. Issue, distribute, or publish, within this State, any circular, advertisement, pamphlet, prospectus, program or other matter, as to any security, unless such advertising complies with the requirements set forth in Section 22<sup>4</sup> of this Act shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000) or imprisonment in the penitentiary for not more than two (2) years, or by both such fine and imprisonment. Acts 1957, 55th Leg., p. 575, ch. 269, § 29 as amended Acts 1961, 57th Leg., p. 1047, ch. 466, § 1.

<sup>1</sup> Articles 581—1 to 581—39.

<sup>2</sup> Article 581—7.

<sup>3</sup> Article 581—23(A).

<sup>4</sup> Article 581—22.

Effective 90 days after May 29, 1961, date of adjournment.

Section 2 of the amendatory act of 1961 amended art. 581—22. Section 3 of the act provided:

"Provided that no offense committed, no case or proceeding pending and no fine or penalty incurred before the effective date

of this Act shall be affected by this Act, or by reason of a conflict between this Act and any other Statute or Statutes in force at the effective date of this Act, but the punishment and prosecution for such act or offense shall take place as if the law or laws in conflict herewith had remained in full force and effect."

## TITLE 20—BOARD OF CONTROL

CHAPTER FOUR—PUBLIC BUILDINGS AND  
GROUNDS DIVISIONArt. 678d. Vending stands operated by blind persons on state property;  
licenses

Sec. 1(a). The assignment of profits from vending machines, in buildings where vending stands are operated under the supervision of the State Commission for the Blind and where vending machines are being operated by departments, boards or commissions and/or divisions of departments, boards or commissions for profit without any of the profits accruing to the blind vending stand operator in the building, shall be determined by negotiation with heads of departments, boards or commissions and/or divisions of departments, boards or commissions by the State Commission for the Blind on the following basis:

- (1) Proximity to and competition with the vending stand;
- (2) Amount of income which accrues to the operator from the stand operation; and
- (3) Amount of profits from vending machines not operated in connection with the stand. Acts 1947, 50th Leg., p. 62, ch. 47, § 1(a) added Acts 1961, 57th Leg., p. 1092, ch. 490, § 1.

Effective 90 days after May 29, 1961 date  
of adjournment.

**TITLE 20A—BOARD AND DEPARTMENT OF  
PUBLIC WELFARE**

Art.

695j. Medical assistance to recipients of public assistance [New].

**Art. 695c. Public Welfare Act of 1941**

**State Department of Public Welfare**

**Sec. 2.**

(3). The members of the State Board of Public Welfare shall receive their actual expenses while engaged in the performance of their duties and a per diem of Twenty-five Dollars (\$25) per day for not exceeding sixty (60) days for any fiscal year. As amended Acts 1961, 57th Leg., p. 643, ch. 299, § 1.

Emergency. Effective June 14, 1961.

**Blind persons; amount of assistance**

Sec. 14. The amount of assistance which shall be given under the provisions of this Act to any individual as aid to the blind shall be determined by the State Department through its district or county agencies in the county or district in which the needy blind person resides with due consideration to the income and other resources of such blind person and in accordance with the rules and regulations of the State Department. In considering eligibility and the amount of the assistance grant, the Department shall exempt from consideration the earned income from employment of such blind applicant or recipient in such amounts as may be determined by the State Department of Public Welfare in conformity with rules and regulations promulgated by said Department and which are not inconsistent with the provisions of the Federal Social Security Act, as it now is, or as it may hereafter be amended, in respect to the earned income of blind recipients. The amount of assistance given shall provide such blind person with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may hereafter be provided. As amended Acts 1961, 57th Leg., p. 397, ch. 200, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Medical assistance to recipients of public assistance, see art. 695j.

**Art. 695h. Federal old age and survivors insurance coverage for state employees**

**Definitions**

Section 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,<sup>1</sup> would not constitute "wages" within the meaning of that Act.

(b) The term "Employment" means any service performed by a State employee except (1) service which in the absence of an agreement entered

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into under this Act shall constitute "employment" as defined in the Social Security Act;<sup>2</sup> or (2) service which under the Social Security Act may not be included in an agreement between the State and the Secretary of Health, Education and Welfare entered into under this Act.

(c) The term "State Employee" in addition to its usual meaning shall include elective and appointive officials of the state; and shall not include those persons rendering services in positions the compensation for which is on a fee basis. The term "State Employee" shall not include any employees in positions subject to the Teacher Retirement System except those employed by state departments, state agencies, and state institutions as construed in their usual meaning. As amended Acts 1957, 55th Leg., p. 2, ch. 2, § 1; Acts 1961, 57th Leg., p. 7, ch. 4, § 1.

Emergency. Effective Feb. 14, 1961.

<sup>1</sup> 26 U.S.C.A. §§ 3121-3125.

<sup>2</sup> 42 U.S.C.A. § 1 et seq.

#### Art. 695j. Medical assistance to recipients of public assistance

##### Definitions

Section 1. The following definitions shall apply to words and terms used in this Act:

(a) The term "Medical Assistance" means monetary assistance paid to a vendor of medical services and/or vendor of hospital services or a vendor of nursing care rendered on behalf of a recipient of public assistance. "Medical Assistance" shall be in addition to and separate from the grants of public assistance made payable directly to the recipients.

(b) The term "vendor of medical services" means any person as defined under Subsection (i) of this Section providing medical services to a recipient of public assistance.

(c) The term "vendor of hospital services" means any person, association, or corporation as defined under Subsection (d) of this Section providing hospital services to a recipient of public assistance.

(d) The term "hospital" means any institution licensed as a hospital under the laws of this state.

(e) The term "nursing care" means care in an establishment licensed as a nursing home under the laws of this state where four (4) or more people unrelated to the proprietor are receiving care which requires the services of or services under the direction and/or supervision of a physician licensed by the Texas State Board of Medical Examiners or the services of or services under the direction and/or supervision of a nurse licensed under the laws of this state.

(f) The term "vendor of nursing care" means any person, association or corporation, providing nursing care, as defined herein, to a recipient of public assistance.

(g) The term "recipient of public assistance," for the purposes of this Act, means any person who was eligible and receiving a grant of old age assistance when medical or hospital services or nursing care were rendered.

(h) The term "Department" means the State Department of Public Welfare.

(i) The term "physician" means a person licensed by the Texas State Board of Medical Examiners.

Medical assistance program created; purpose; Department of  
Public Welfare to administer

Sec. 2. There is hereby created a program to be known as the Medical Assistance Program for the purpose of providing Medical Assistance to needy individuals receiving public assistance in accordance with the terms of this Act. The State Department of Public Welfare is hereby designated as the State Department to administer Medical Assistance on behalf of recipients of public assistance as defined in this Act, and in accordance with the laws of the State of Texas, and is designated as the State Department to cooperate with and enter into agreements with the Department of Health, Education, and Welfare, or any other Federal Agency which may hereafter be designated by Federal Statute to administer such aid, so as to provide Medical Assistance on behalf of recipients of public assistance as herein prescribed or may hereafter be provided.

The State Department of Public Welfare is hereby authorized to accept money from the Federal Government for the purposes enumerated in this Act and is hereby authorized to expend such sums as may be received for such purposes and in the manner prescribed in this Act or as otherwise provided by law.

Persons eligible for assistance

Sec. 3. Medical Assistance may be given under the provisions of this Act on behalf of any recipient of public assistance:

(1) Who is certified by the physician of his choice as having an illness, injury or physical deformity which requires immediate in-patient care in a hospital and that the illness, injury or physical deformity is such that the absence of such care would be gravely detrimental to the health of such recipient, or who is certified by the physician of his choice as having an illness, injury or physical deformity which requires that nursing care, as defined herein, be rendered him; and

(2) Who is not an inmate in a public institution (except as a patient in a medical institution) or is not a patient in an institution for tuberculosis or mental disease, or who has not been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

Establishment of eligibility; certification

Sec. 4. No application for Medical Assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is eligible as evidenced by the fact that he has been certified by the Department as being a recipient of public assistance and that such recipient is eligible for Medical Assistance payments on his behalf.

Eligibility for Medical Assistance shall be established by the Department certifying to the vendor of medical and/or hospital services or to the vendor of nursing care that the patient is currently receiving public assistance within the month of entry into such hospital or nursing home. The attending physician(s) shall make necessary certifications upon forms prescribed by the Department certifying the necessity for entry into such hospital.

In the case of vendors of nursing care, the attending physician of the recipient shall make necessary certifications upon forms prescribed

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by the Department certifying the necessity for entry into a licensed nursing home for nursing care.

**Rules and regulations; amount of assistance payments; prorating claims**

Sec. 5. The State Department of Public Welfare shall adopt reasonable rules and regulations for administering the Program and for determining the amounts of Medical Assistance to be paid on behalf of public assistance recipients within the limitations of appropriated state and federal funds. The amount of such Medical Assistance payments out of state funds shall never exceed the amount so expended out of federal funds.

If at any time, state funds are not available to pay all claims for Medical Assistance in full, such claims shall be prorated as the State Board of Public Welfare may direct.

**Direct vendor payment program**

Sec. 6. The State Department of Public Welfare is hereby authorized to determine the method of administration for payment of claims for the Medical Assistance Program by establishing a direct vendor payment program administered by the Department or by an insurance plan or hospital service plan and/or a medical service plan authorized to do business in Texas, or by a combination of such plans.

**Federal or state hospitals and institutions; care of inmates, responsibility for not released**

Sec. 7. No provision of this Act is intended to release the federal or state institutions in this state from the specific responsibility which is currently borne by them in the care of those persons currently residing in either federal or state hospitals or institutions for the care or treatment of mentally retarded or mentally ill persons or for the treatment of tuberculosis or those who hereafter become eligible for or entitled to care or treatment in such institutions. It is further provided, that none of the moneys appropriated for Medical Assistance shall be used for the payment of assistance grants or for providing services to or on behalf of persons who are so hospitalized or whose mental or physical condition is such that his welfare and that of the general public would best be served by care and treatment in such public institutions and such public institutional care is available.

**Medical Assistance Fund created in Treasury**

Sec. 8. At such time as appropriations are authorized by the Legislature for the purposes of carrying out the provisions of this Act, there shall be created in the Treasury a special fund to be known as the "Medical Assistance Fund," which shall constitute a separate account of the "State Department of Public Welfare Fund," and shall be expended only for the purposes of carrying out the provisions of this Act and for the purposes for which said separate account was created; provided, however, that the amount of such assistance or the amount of such medical care on behalf of such recipients out of state funds shall not exceed the amount that is matchable out of federal funds.

**Use of funds appropriated; personnel and other administrative expenses**

Sec. 10. At such time as appropriations are made available for such purposes, the State Department of Public Welfare is authorized to use such funds for the administrative cost of the operation of the

Medical Assistance Program, including but not limited to the payment of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, examining fees, medical services, maintenance and miscellaneous and contingent expense (includes Merit System).

The personnel and other administrative expenses provided for in this Section shall constitute additional staff and administrative expenses of the State Department of Public Welfare, and said Department is hereby authorized to establish position classifications, and such additional personnel and administrative expenses shall be integrated with the present staff and other costs of administration for the purpose of administering the public assistance programs, and shall in no way lessen the authority or the power of the Commissioner of Public Welfare to allocate and reallocate functions of the employees as provided in Section 5 of Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill No. 611, Chapter 562, page 914, Acts of the 47th Legislature, Regular Session, 1941, as amended.<sup>1</sup> Acts 1961, 57th Leg., p. 858, ch. 380.

<sup>1</sup> Article 695c.

Effective 90 days after May 29, 1961, date of adjournment.

Medical assistance fund, see art. 7083a (7).

Section 9 of the 1961 Act added subsection 7 to art. 7083a.

Public welfare act of 1941, see art. 695c.



**TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.**

**CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS**

<p>Art. 709b. Home rule cities; validation of bonds [New].</p> <p>709c. Home rule cities; advertising bonds for sale and receipt of bids before passage of ordinance authorizing bond issue [New].</p>	<p>Art. 717j. Repealed.</p> <p>717j—1. Texas Uniform Facsimile Signature of Public Officials Act [New].</p> <p>717n. Counties; issuance of certificates of indebtedness [New].</p>
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**Art. 708. [617] [918b] Sale price**

Home rule cities, advertising bonds for sale and receipt of bids before passage of ordinance authorizing bond issue, see art. 709c.

**Art. 709b. Home rule cities; validation of bonds**

Section 1. All bonds heretofore authorized by any Home Rule City in the State of Texas which pledge the revenues of its water, sewer, or electric systems, or any combination of the revenues of such systems, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of charter or statutory authority of such city, or the governing body thereof to authorize and issue such bonds and make such pledge of revenue or revenues, and notwithstanding the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the charter or statutes, and the issuance, sale and delivery of such bonds are hereby authorized and approved irrespective of the fact that any such city may be engaged in any suit or litigation questioning the power of such city to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to function under such Home Rule Charter may be contested or under attack in such suit or litigation; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, in accordance with law, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and the bonds shall be incontestable.

Sec. 2. This Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the voting qualified property taxpaying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings or bonds, except insofar as such proceedings or bonds might be affected by any such city being engaged in any suit or litigation questioning the power of such city, or the governing body thereof, to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to so function under such Home Rule Charter may be contested or under attack. Acts 1961, 57th Leg., p. 175, ch. 92.

Emergency. Effective May 3, 1961. Funding bonds or warrants, authority of home rule cities to issue, see art. 802b—1.

Bonds, issuance by cities over 500,000 inhabitants, see art. 1182c—4. Powers of home rule cities, see art. 1175.

Validity of certain bonds, see art. 716.

**Art. 709c. Home rule cities; advertising bonds for sale and receipt of bids before passage of ordinance authorizing bond issue**

**Section 1.** This Act shall be applicable to any Home Rule City having a charter which provides that bonds issued by the city shall be advertised for sale after the bonds have been authorized and issued.

**Sec. 2.** In order for the city to receive competitive bids on the interest rate its bonds are to bear, as well as on the amount of the premium, the governing body of any city to which this Act is applicable shall advertise its bonds for sale and receive bids therefor before the passage of the ordinance authorizing the issuance of the bonds. Acts 1961, 57th Leg., p. 571, ch. 268.

Emergency. Effective June 1, 1961.

Funding bonds or warrants, authority to issue, see art. 802b—1.

Home rule cities, see art. 1165 et seq.

Interest and sinking fund, see art. 707.

Refunding bonds of home rule cities, validation, see art. 835e—1.

Sale price, see art. 708.

**Title of Act:**

An Act applicable to any Home Rule City having a charter which provides that its bonds shall be advertised for sale after the bonds have been authorized and issued; providing that the governing body of such city shall advertise its bonds for sale and receive bids therefor before passage of the ordinance authorizing the issuance of the bonds; and declaring an emergency. Acts 1961, 57th, Leg., p. 571, ch. 268.

**Art. 716a. Validating municipal bond issues**

Validating city tax bonds for waterworks and sewage systems, see art. 1118n—9.

**Art. 717b. Borrowing from Federal Agencies**

Counties of 7,500 to 10,000, authority to borrow money, see art. 1644c—1.

**Art. 717j. Repealed. Acts 1961, 57th Leg., p. 406, ch. 204, § 9**

Article 717j, derived from Acts 1955, 54th Leg., p. 802, ch. 293, related to use of facsimile signatures on public securities. See now, art. 717j—1.

**Art. 717j—1. Texas Uniform Facsimile Signature of Public Officials Act**

**Definitions**

**Section 1.** As used in this Act:

(a) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state, its political subdivisions, or by any department, agency, or other instrumentality of this state or its political subdivisions.

(b) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(c) "Authorized officer" means any official of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions whose signature to a public security or instrument of payment is required or permitted.

(d) "Facsimile signature" means a reproduction by engraving, imprinting, lithographing, stamping, or other means of the manual signature of an authorized officer.

**Facsimile Signature**

**Sec. 2.** If the use of a facsimile signature is authorized by the board, body, or officer empowered by law to authorize the issuance of the public

*For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes*

securities or instruments of payment, any authorized officer may execute, authenticate, certify, or endorse, or cause to be executed, authenticated, certified, or endorsed with a facsimile signature in lieu of his manual signature:

(a) Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed; and

(b) Any instrument of payment; and

(c) In any suit or legal action instituted against the officer whose name is affixed under the provisions of this Act, it shall not be a defense that such name was affixed to any public security or instrument of payment, as herein defined, without his authority or consent. Upon compliance with this Act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

However, as to a public security required to be registered by the Comptroller of Public Accounts of the State of Texas, only his signature or that of a deputy designated in writing to act for the Comptroller is required to be manually subscribed to such public security, or to a certificate thereon.

#### **Facsimile Seal**

Sec. 3. When the seal of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions is required in the execution, authentication, certification, or endorsement of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, lithographed, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

#### **Penalty**

Sec. 4. Any person who with intent to defraud uses on a public security or an instrument of payment:

(a) A facsimile signature, or any reproduction of it, of any authorized officer; or

(b) Any facsimile seal, or any reproduction of it, of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions shall upon conviction be confined in the penitentiary not less than two nor more than seven years.

#### **Uniformity of Interpretation**

Sec. 5. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

#### **Short Title**

Sec. 6. This Act may be cited as the Texas Uniform Facsimile Signature of Public Officials Act.

#### **Severability Clause**

Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Applicability

Sec. 8. This Act applies to all public securities authorized and all instruments of payment executed after the effective date of this Act. The signature upon public securities authorized after the effective date of House Bill No. 725, Acts, 1955, 54th Legislature, Chapter 293, but prior to the effective date of this Act and which were not executed prior to the effective date of this Act may be placed upon these public securities by complying either with House Bill No. 725, Acts, 1955, 54th Legislature, Chapter 293, or with this Act. Acts 1961, 57th Leg., p. 406, ch. 204.

Emergency. Effective May 24, 1961.

Section 10 of the Act of 1961 contained a savings clause.

Funding, refunding and compromises, requisites of bonds, see art. 801.

Hospital authorities, requisites of revenue bonds, see art. 4437e.

Junior college districts, facsimiles on refunding bonds, see art. 2815h—8.

Signature, definition, see art. 23.

Title of Act:

An Act concerning the use of facsimile signatures and seals upon public securities and instruments of payment; repealing House Bill No. 725, Acts, 1955, 54th Legislature, Chapter 293; and declaring an emergency. Acts 1961, 57th Leg., p. 406, ch. 204.

Art. 717n. Counties; issuance of certificates of indebtedness

Adoption of act; eligible county defined

Section 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any eligible county within this state upon the unanimous vote of the members of such court. An eligible county is defined to mean any county whose total taxable valuations at the time of the adoption of the provisions of this Act, according to the last approved tax rolls of the county, decreased by as much as seven per centum (7%) from the year preceding and which county will not have sufficient funds available within the current fiscal year to meet its general fund operating expenses as the same shall become due.

Issuance of certificates; purpose

Sec. 2. Subject to the limitations contained in this Act, an eligible county is authorized to issue certificates of indebtedness for the purpose of paying the operating expenses of the county to be legally incurred payable from the county's constitutional general fund as the same shall become due. Any such certificates shall be sold for cash at not less than par and accrued interest and the proceeds thereof, excluding accrued interest, shall be used for the purpose authorized in this Act, provided, however, no such certificates shall be issued, sold or delivered after two (2) years from the effective date of this Act.

Maturity; interest; form of certificates and coupons

Sec. 3. Such certificates shall be authorized by order of the Commissioners Court, shall mature in not exceeding fifteen (15) years from their date and bear interest at a rate not to exceed five per centum (5%) per annum. Interest may be evidenced by coupons and the certificates shall be fully negotiable. The certificates and coupons pertaining thereto shall be signed by the county judge and attested by the county clerk, or the signatures of such officials may be lithographed or printed on such certificates or coupons in accordance with the provisions of Article 717j, Revised Civil Statutes of Texas, 1925, as amended, or any other law as may then be applicable to the execution of obligations issued by a county.

**Tax**

Sec. 4. When such certificates are issued, it shall be the duty of the Commissioners Court to levy and have assessed and collected a tax (out of the constitutional general fund tax as provided by Article 8 Section 9 of the Constitution of Texas) sufficient to pay the principal of and the interest on the certificates as such principal and interest become due, not to exceed ten cents (10¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in said county, nor may any eligible county issue any certificates under the provisions of this Act in the aggregate principal amount in excess of one-half ( $\frac{1}{2}$ ) of one per centum (1%) of the valuation of taxable property in said county according to the last approved tax rolls of such county at the time of the adoption of this Act.

**Examination and approval of certificates**

Sec. 5. The certificates and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination and if they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and thereafter they shall be incontestable.

**Legal and authorized investments**

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

**Refunding bonds**

Sec. 7. The Commissioners Court of an eligible county shall have the right at all times to issue refunding bonds for the refunding of certificates issued under the terms of this Act, subject to the General Laws applicable to the issuance of refunding bonds by counties and without the necessity of any notice or right to referendum vote. Acts 1961, 57th Leg., p. 651, ch. 301.

Emergency. Effective June 14, 1961.

County finances, general provisions, see art. 1607 et seq.

Texas uniform facsimile signatures of public officials act, see art. 717j-1.

## CHAPTER TWO—COURTHOUSE, JAIL AND OTHER BONDS

Art.

725b. Counties of over 900,000; bond issue authorized; referendum [New].

## Art. 718. [610] [877] County issues authorized

Counties of less than 20,000, joint financing and construction of jails with cities, see art. 5115a.

## Art. 725b. Counties of over 900,000; bond issue authorized; referendum

Any county having in excess of nine hundred thousand (900,000) population according to the last preceding Federal Census is authorized to issue bonds for the purposes of erecting and equipping a courthouse and jail and county branch office buildings, and acquiring sites therefor, provided such bonds are voted and issued as required by Chapter 1, Title 22, Revised Civil Statutes, as amended. Bonds for any or all of said purposes may be submitted to the voters in a single proposition. The bonds, in the discretion of the Commissioners Court, may be made optional for redemption prior to maturity on any date specified by the court in the bonds. The bonds may be executed with the facsimile signatures as provided by law, and a facsimile seal of the Commissioners Court may be printed or lithographed thereon. The bonds shall be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts in accordance with, and with the effect provided in said Chapter 1, Title 22. If any election is held prior to the effective date of this Act for the purposes herein authorized, the county is authorized to proceed with the issuance of such bonds in the manner herein provided. Acts 1961, 57th Leg., p. 1015, ch. 442, § 1.

Emergency. Effective June 17, 1961.

## CHAPTER FIVE—FUNDING, REFUNDING AND COMPROMISES

Art.

802h. Refunding bond due serially adjudicated to be valid by decree of federal court [New].

## Art. 801. [667 to 672] Requisites of bonds

Texas uniform facsimile signature of public officials act, see art. 717j—1.

## Art. 802b—1. Home rule cities without specified utilities authorized to issue funding bonds or warrants

Validation of certain bonds issued by home rule cities, see art. 709b.

## Art. 802b—5. Home rule or special charter cities and towns; bonds to pay existing judgments authorized

Home rule cities, advertising bonds for sale and receipt of bids before passage of ordinance authorizing bond issue, see art. 709c.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 802h.** Refunding bonds due serially adjudicated to be valid by decree of federal court

**Eligible cities**

Section 1. This Act shall be applicable to any city which has outstanding refunding bonds adjudicated to be valid by a decree of the Federal Court, where the ordinance authorizing the issuance of such refunding bonds provides that not less than a fixed rate of tax therein specified shall be levied, assessed and collected each year as long as any of such bonds or interest thereon are outstanding. Such bonds are herein called "Original Refunding Bonds."

**Maturities; interest rate**

Sec. 2. Any such city is hereby authorized to issue refunding bonds (hereinafter called "New Refunding Bonds") having serial maturities and bearing interest at a rate to be determined by the governing body of the city, not to exceed six percent (6%) per annum, for the purpose of refunding such Original Refunding Bonds, in the manner provided by law for the issuance of city refunding bonds.

**Sale of new refunding bonds in lieu of exchange for original refunding bonds**

Sec. 3. In lieu of exchanging the New Refunding Bonds for the Original Refunding Bonds in the manner otherwise provided by law, the city may sell the New Refunding Bonds (or the unexchanged portion of them) at not less than par and accrued interest and deposit the principal amount received from such sale, together with the additional amount necessary to pay the interest to the call date, or maturity dates, with the bank where the Original Refunding Bonds are payable, in which event, a certified copy of the ordinance or resolution so providing shall be transmitted to the Comptroller of Public Accounts and he shall register the New Refunding Bonds without cancellation of the Original Refunding Bonds and deliver them as provided in said ordinance or resolution. No city charter provision relating to the terms, issuance, sale and delivery of bonds shall be applicable to bonds issued under this law.

**Incontestability of bonds**

Sec. 4. When such New Refunding Bonds shall have been authorized by ordinance of the governing body of the city, signed by the Mayor and city secretary or clerk of said city, approved by the Attorney General of Texas, and registered by the Comptroller of Public Accounts, they shall be incontestable and shall constitute valid and binding obligations of such city. Acts 1961, 57th Leg., 1st C. S., p. 130, ch. 27.

Emergency. Effective Aug. 18, 1961.

**CHAPTER SEVEN—MUNICIPAL BONDS**

**Art. 835. [883] [482] Harbor bonds**

Harbor and port facilities of cities of 60,000 or more on Gulf or connecting waters, see art. 1187f.

**Art. 835e. Bonds validated**

Validating city tax bonds for waterworks and sewage systems, see art. 1118n-9.

**Art. 835l. Harbor, wharf and dock facilities; cities and towns of 5,000 or less on Gulf or connecting waters**

Harbor and port facilities of cities of 60,000 or more on Gulf or connecting waters, see art. 1187f.

**CHAPTER EIGHT—SINKING FUNDS—INVESTMENTS, ETC.**

**Art. 842a. Securities issued by Federal Agencies; exchange by Building and Loan Associations of bond with shareholders**

Hereafter, all mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness, issued or that hereafter may be issued under the terms and provisions of the National Housing Act, approved by the President of the United States on June 27, 1934, as amended<sup>1</sup> and as may hereafter be amended, and all 'insured accounts' issued or that may hereafter be issued by any institution insured under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended<sup>2</sup> and as may hereafter be amended, or any evidences of indebtedness or accounts that may be issued or insured by any lawful agency created thereunder, all mortgages, bonds, debentures, notes, collateral trust certificates, or other such evidences of indebtedness, which have been or which may hereafter be issued by the Federal Home Loan Bank Board, or any Federal Home Loan Bank, or the Home Owners' Loan Corporation, or by the Federal Savings and Loan Insurance Corporation, or by the Federal Farm Loan Board, or by any Federal Land Bank, the Federal Intermediate Credit Banks, or Banks for Cooperatives, or by any National Mortgage Association, or by any entity, corporation or agency, which has been or which may be created by or authorized by any Act, which has been enacted or which may hereafter be enacted by the Congress of the United States, or by any amendment thereto, which has for its purpose the relief of, refinancing of or assistance to owners of mortgaged or incumbered homes, farms, and other real estate, and the improvement or financing or the making of loans on any real property, shall hereafter be lawful investments for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds or mortgages are authorized by law to be accepted. Such mortgages, bonds, debentures, notes, collateral trust certificates and other such evidences of indebtedness, insured accounts shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees, and receivers, for building and loan associations, savings departments of banks, incorporated under the laws of Texas, for banks, savings banks and trust companies, chartered under the laws of Texas, and all insurance companies of every kind and character, chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State; providing further that where such mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness are issued against and secured by promissory notes, or other obligations, the payment of which is secured in whole or in part, by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such mortgages, bonds, debentures, notes, collateral trust certificates, or other such evidences of indebtedness are acquired, directly or indirectly, in exchange for or in substitution of notes, or other obligations, secured by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas,



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or where such "insured accounts" are issued by building and loan associations chartered under the laws of Texas or by Federal Savings and Loan Associations domiciled in Texas, then such mortgages, bonds, debentures, notes, collateral trust certificates or other such evidences of indebtedness, "insured accounts," so issued and so secured, or so acquired or insured, shall be regarded for investment purposes by insurance companies as "Texas Securities," within the meaning of the laws of Texas governing such investments.

The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas, affecting the investment of funds or moneys by fiduciaries, guardians, administrators, trustees and receivers, building and loan associations, savings departments of banks, incorporated and doing business under the laws of Texas, commercial banks, savings banks and trust companies, chartered and doing business under the laws of Texas, insurance companies of any kind and character, chartered and transacting business under the laws of Texas, and all corporate creatures, organized and doing business under the laws of Texas.

It is hereby declared to be the legislative intent to enact a separate provision of this Act independent of all other provisions, and the fact that any phrase, sentence, or clause of this Act shall be declared unconstitutional, shall in no event affect the validity of any of the provisions hereof. As amended Acts 1961, 57th Leg., p. 1119, ch. 507, § 1.

<sup>1</sup> 48 Stat. 1246.

<sup>2</sup> 12 U.S.C.A. §§ 1724-1730.

Effective 90 days after May 29, 1961, date of adjournment.

### TITLE 23—BRANDS AND TRADE MARKS

Art. 843. [1392] [918a] Trademark of another

*Repeal of fee provisions, see art. 3930a, note.*

Art. 848. Record for dairymen

*Repeal of fee provisions, see art. 3930a, note.*

### TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art. 881a—2. Commissioner to investigate

Savings and loan commissioner, powers and duties, see art. 342—205.

## TITLE 25—CARRIERS

## Art. 911a. Motor bus transportation and regulation by railroad commission

Sec. 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special minimum fee of Ten Dollars (\$10) for each motor-propelled vehicle, and a further fee, computed on the basis of One Dollar (\$1) per passenger set for the rated passenger capacity of the vehicle, or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fees paid shall be proportionate to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ( $\frac{1}{4}$ ) the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor-propelled vehicles for less periods shall be fixed by the Commission in such reasonable amount as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer, be deposited in the State Treasury at Austin and credited to the General Revenue Fund. As amended Acts 1961, 57th Leg., p. 498, ch. 240, § 1.

Emergency. Effective May 27, 1961.

Sec. 16. Repealed. Acts 1961, 57th Leg., p. 498, ch. 240, § 2.

Emergency. Effective May 27, 1961.

*Section 3 of the amendatory Act of 1961 provided: "The Motor Transportation Fund (No. 77) is hereby abolished and the unexpended balance in that fund as of August 31, 1961, shall be transferred to the General Revenue Fund within thirty (30) days after September 1, 1961."*

Art. 911b. Motor carriers and regulation by Railroad Commission—  
Definitions

## Definitions

## Section 1.

(i) "Specialized motor carrier" means any person owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting, over any public highway in this state, over irregular routes on irregular schedules, for compensation and for the general public with specialized equipment, property requiring specialized equipment in the transportation and handling thereof; provided, that the term "specialized motor carrier" as used in this Act shall not apply to motor vehicles operated exclusively within the incorporated limits of cities or towns; and, provided further, the term "specialized motor carrier" as used herein shall include those carriers who engage or desire to engage exclusively in the transportation of livestock, livestock

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feedstuff, agricultural products in their natural state, broom corn, grain, farm machinery, timber in its natural state, milk, wool, mohair, or property requiring specialized equipment as that term is hereinafter defined, or any one, or more, of the foregoing named commodities.

For the purpose of this Act, the term "specialized equipment" includes, but is not limited to block and tackle, hoists, cranes, windlasses, gin poles, winches, special motor vehicles, and such other devices as are necessary for the safe and proper loading or unloading of property requiring specialized equipment for the transportation and handling thereof.

For the purpose of this Act, the term "property requiring specialized equipment" is limited to (1) oil field equipment, (2) household goods and used office furniture and equipment, (3) pipe used in the construction and maintenance of water lines and pipelines, and (4) commodities which by reason of length, width, weight, height, size, or other physical characteristics require the use of special devices, facilities, or equipment for their loading, unloading, and transportation.

For the purpose of this Act, the term "oil field equipment" means and includes machinery, materials, and equipment incidental to or used in the construction, operation, and maintenance of facilities which are used for the discovery, production, and processing of natural gas and petroleum, and such machinery, materials, and equipment when used in the construction and maintenance of pipelines. As amended Acts 1961, 57th Leg., p. 629, ch. 295.

Effective 90 days after May 29, 1961,  
date of adjournment.

## TITLE 26—CEMETERIES

### Art. 912a—1. Definitions

Cemeteries, miscellaneous corporation laws, see art. 1302—3.03.

### Art. 912a—10. Dedication

*Repeal of fee provisions, see art. 3930a, note.*

## TITLE 27—CERTIORARI

### Arts. 950, 951.

*Repeal of fee provisions, see art. 3930a, note.*

## TITLE 28—CITIES, TOWNS AND VILLAGES

## CHAPTER ONE—CITIES AND TOWNS

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| <p>Art.<br/>966h. Cities and towns of 4,500 or less, validation of incorporation; areas and boundary lines; governmental proceedings and acts [New].</p> <p>974c—5. Cities and towns of 800 inhabitants or less, validation of annexation and extension of boundaries [New].</p> <p>974c—6. Cities and towns of 500 or less; validation of annexation of territory [New].</p> | <p>Art.<br/>974d—8. Cities and towns of 5100 to 5300; validation of incorporation, boundary lines; governmental proceedings; adoption of home rule charter [New].</p> <p>974d—9. Cities and towns of not more than 6,000; validation of incorporation; boundary lines; governmental proceedings; adoption of home rule charter [New].</p> |
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## Art. 962. [764] [383] [342] General powers

Change in designation from town to city, see art. 1153a.

Art. 966h. Cities and towns of 4,500 or less, validation of incorporation; areas and boundary lines; governmental proceedings and acts

Section 1. All cities and towns in Texas of four thousand, five hundred (4,500) inhabitants or less, according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of such city or town.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4. If any word, phrase, clause, sentence, paragraph or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorpo-

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ration or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof. Acts 1961, 57th Leg., p. 583, ch. 275.

Emergency. Effective May 29, 1961.

Cities and towns of not more than 6,000, validation of incorporation, see art. 974d-9.

#### Art. 968. Effect of acceptance

Change in designation from town to city, see art. 1153a.

#### Art. 969. Property rights

Acquisition of natural gas system for courthouses and other county buildings, see art. 2372q.

#### Art. 969a. Lease of islands or submerged lands by certain cities

Lease by city of Corpus Christi of submerged lands previously relinquished to city by state, see art. 5421j-2. State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

#### Art. 969a-1. Lease, sale, option or conveyance of islands, flats or other submerged lands

Lease by city of Corpus Christi of submerged lands previously relinquished to city by state, see art. 5421j-2.

#### Art. 974a. Platting and recording subdivisions or additions

Subdivision plats, recording in counties of less than 190,000 population, see art. 6626a.

#### Art. 974c-5. Cities and towns of 800 inhabitants or less, validation of annexation and extension of boundaries

Section 1. The actions and proceedings of all cities and towns in Texas of eight hundred (800) inhabitants or less, according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town pursuant to a petition of owners of lands in such annexed area, and a part of which land was, prior to such annexation included in an ordinance of annexation by a neighboring city but was either discontinued as a part of such city or was deleted from the ordinance of annexation before final passage by such neighboring city, and have passed an ordinance or ordinances describing the territory annexed and have caused a certified copy of such ordinance or ordinances to be recorded in the Deed Records of the county in which such city or town is situated, are hereby in all respects validated as of the date of such annexation or attempted annexation.

Sec. 2. The areas and boundary lines of all such cities and towns covered by the provision of this Act, including both the boundary lines covered by the original incorporation and by any subsequent extension of the area and corporate limits by ordinance adopted pursuant to petition of owners of land included in such extension and annexation are hereby in

all things validated, and such annexations and extension of corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized by Article 971 of the Revised Statutes of the State of Texas of 1925, as amended, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town or city purposes.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof. Acts 1961, 57th Leg., p. 116, ch. 63.

Emergency. Effective April 10, 1961.

Cities of 3,000 or less, validation of discontinuance of territory, boundaries and annexation of discontinued territory, see art. 973a.

Cities of 5,000 or less, validation of extension of areas and boundary lines, see art. 974d—4.

Territorial boundaries, see art. 971.

**Art. 974c—6. Cities and towns of 500 or less; validation of annexation of territory**

Section 1. All cities and towns in Texas of five hundred (500) inhabitants or less, heretofore incorporated, or attempted to be incorporated, under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are located partially within two different counties, the larger of which had a population of five hundred thirty-eight thousand, four hundred ninety-five (538,495) at the last Federal Census and the smaller of which had a population of forty-seven thousand, four hundred thirty-two (47,432), which have attempted to extend the corporate limits of such cities or towns, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of either of the counties in which such city or town is situated, and all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original corporation proceedings and by any subsequent extension thereof, are in all things validated.

Sec. 3. The provisions of this Act shall not apply to any territory of any city where the annexation of such territory is the subject of any pending litigation at the time of the passage of this Act. Acts 1961, 57th Leg., p. 892, ch. 392.

Effective 90 days after May 29, 1961, date of adjournment.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 974d—8.** Cities and towns of 5100 to 5300; validation of incorporation; boundary lines; governmental proceedings; adoption of home rule charter

Section 1. The incorporation proceedings of all cities and towns in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, and having a population according to the Federal Census of 1960 of not less than 5100 nor more than 5300, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any such city or town in this state heretofore incorporated or attempting to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not less than 5100 nor more than 5300, where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of said charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city under the constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 5. This Act shall not be construed as validating the adoption of any charter if the validity of the charter adoption proceedings or of the charter is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof. Acts 1961, 57th Leg., p. 226, ch. 116.

Filed without Governor's signature.

Emergency. Effective May 12, 1961.

Territorial boundaries, see art. 971.

Home rule charter, validation of adoption, see arts. 1174a, 1174a—1 to 1174a—4.

Validation of incorporation of cities of 5,000 or less, see arts. 966a, 966e, 966f, 966g.

**Art. 974d—9.** Cities and towns of not more than 6,000; validation of incorporation; boundary lines; governmental proceedings; adoption of home rule charter

Section 1. The incorporation proceedings of all cities and towns in this state heretofore incorporated or attempted to be incorporated under

the General Laws of Texas, and having a population according to the Federal Census of 1960 of not more than six thousand (6,000), whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns covered by the original incorporation proceedings are hereby in all things validated.

Sec. 3. All governmental proceedings other than annexation proceedings performed by the governing bodies of such cities and towns and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any such city or town in this state heretofore incorporated or attempting to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not more than six thousand (6,000), where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of said charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city under the Constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city, other than acts pertaining to annexation, are hereby in all things validated.

Sec. 5. This Act shall not be construed as validating the adoption of any charter if the validity of the charter adoption proceedings or of the charter is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof. Acts 1961, 57th Leg., 1st C.S., p. 153, ch. 40.

Emergency. Effective Aug. 26, 1961.

Cities and towns of 4,500 or less, validation of incorporation, see art. 966h.

#### CHAPTER FOUR—THE CITY COUNCIL

Art.  
1015g—1. Pledge of revenue derived from  
operation of toll bridge [New].

#### Art. 1011f. Zoning commission

In order to avail itself of the powers conferred by this Act, such legislative body shall appoint a commission, to be known as the Zoning Commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such legislative body shall not hold



its public hearings or take action until it has received the final report of such Commission; provided, however, that any city or town, by ordinance, may provide for the holding of any public hearing of the legislative body, after published notice required by Section 4 of this Act, jointly with any public hearing required to be held by the Zoning Commission, but such legislative body shall not take action until it has received the final report of such Zoning Commission. Where a City Plan Commission already exists, it may be appointed as the Zoning Commission. Written notice of all public hearings before the Zoning Commission on proposed changes in classification shall be sent to owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice to be given, not less than ten (10) days before the date set for hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given by publication in the manner provided in Section 4 of this Act.<sup>1</sup> As amended Acts 1953, 53rd Leg., p. 732, ch. 287, § 1; Acts 1961, 57th Leg., p. 570, ch. 267, § 1.

<sup>1</sup> Article 1011d.

Emergency. Effective June 1, 1961.

#### **Art. 1011g. Board of adjustment**

Such local legislative body may provide for the appointment of a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

The Board of Adjustment shall consist of five (5) members, each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Provided, however, that the governing body of any city may, by charter provision or ordinance, provide for the appointment of two (2) alternate members of the Board of Adjustment who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager, as the case may be. All cases to be heard by the Board of Adjustment will always be heard by a minimum number of four (4) members. These alternate members, when appointed, shall serve for the same period as the regular members and any vacancies shall be filled in the same manner and shall be subject to removal as the regular members.

The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Act. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall

keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any ordinance adopted pursuant thereto.
2. To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.
3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above-mentioned powers such Board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

presented to the court within ten (10) days after the filing of the decision in the office of the Board.

Upon presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings. As amended Acts 1959, 56th Leg., p. 545, ch. 244, § 1; Acts 1961, 57th Leg., p. 687, ch. 322, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 1015. Other powers

Grade-level street crossings by railroad lines, elimination, see art. 1105c.

#### Art. 1015d. Acquisition of gas systems and distribution of gas by cities

Acquisition of natural gas system for courthouses and other county buildings, see art. 2372q.

#### Art. 1015g—1. Pledge of revenue derived from operation of toll bridge

Any city or town in this State incorporated under the General Laws of the State, or incorporated and acting under its Special Charter or Home Rule Charter which is receiving revenue, by virtue of a contract with another city or town concerning the operation of a toll bridge over a river between the State of Texas and the Republic of Mexico, may appropriate or pledge all or any part of such revenue to redeem or pay any bonds, notes or warrants, as well as interest thereon, authorized to be issued by such city or town under any provision of law or to retire any other indebtedness which such city or town may legally incur. Acts 1961, 57th Leg., p. 520, ch. 246, § 1.

Emergency. Effective May 27, 1961.

Construction of bridges over navigable waters, see art. 1187a.

Bonds for international bridge across Rio Grande, see art. 1187a—1.

Home rule cities owning portion of bridge over Rio Grande River; additional bonds, see art. 1187a—2.

Toll bridges over international boundary rivers, powers respecting, see art. 1015g.

**Title of Act:**

An Act relating to the authority of certain cities or towns to pledge certain revenue to redeem bonds, notes or warrants, as well as the interest thereon of such cities or towns; providing severability and general repealing clauses; and declaring an emergency. Acts 1961, 57th Leg., p. 520, ch. 246.

**Art. 1015h. Public building; powers of city owning natural gas distribution system**

Acquisition of natural gas system for courthouses and other county buildings, see art. 2372q.

**Art. 1016. [854] [419] [375] Streets and alleys, etc.**

Any city or town incorporated under the general laws of this State shall have the exclusive control and power over the streets, alleys, and public grounds and highways of the city or town, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, clean and otherwise improve said streets; to put drains or sewers therein, and prevent encumbering thereof in any manner, and to protect same from encroachment or injury; and to regulate and alter the grade of premises; to require the filling up and raising of same; and, upon petition of all of the owners of real property abutting a street or alley, the governing body of any such city or town shall also have the power, by ordinance, to vacate and abandon and close any such street or alley. As amended Acts 1961, 57th Leg., p. 704, ch. 329, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 1018. Use by railway, etc.**

Grade-level street crossings by railroad lines, elimination, see art. 1105c.

**CHAPTER NINE—STREET IMPROVEMENTS**

**Art.**

**1105c. Cities of more than 100,000; elimination of grade-level street crossings by railroad lines [New].**

**Art. 1090a. Validating assessment ordinances and liens in certain cities**

Validation of ordinances of home rule cities authorizing issuance of time warrants for purchase of rights-of-way for streets, see art. 1176b—3.

**Art. 1105c. Cities of more than 100,000; elimination of grade-level street crossings by railroad lines**

**Application of act; power of cities; purposes**

**Section 1.** This Act shall apply to every incorporated city or town (including Home Rule Cities) having a population of more than one hundred thousand (100,000) inhabitants according to the Federal Census last preceding the taking of any action by such city or town under the provisions of this Act. Every such city or town (referred to hereinafter as "city") is hereby empowered and authorized to purchase, build, construct, acquire, improve, enlarge, extend, maintain, repair, and replace any and

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all properties, improvements and facilities which the governing body thereof deems to be necessary for the elimination of grade-level crossings by railroad lines of the streets of such city and for the relocation of railroad lines within said city, so that the hazards to life and property will be decreased, public safety and convenience will be promoted, traffic conditions will be improved, and the orderly development of the city will be encouraged. Without in any way limiting the generalization of the foregoing, it is expressly provided that "properties, improvements and facilities" mentioned above shall include lands, properties, rights-of-way, elevated structures, grade separations, underpasses, overpasses, passenger stations or depots and other buildings, interchange yards, railroad tracks, removal and relocation of railway tracks, removal and relocation of utility lines or pipes or other improvements, removal or demolition of buildings or improvements, damages to other properties in connection with any of the foregoing, street improvements in connection with any of the foregoing, and any other properties, buildings, improvements, or facilities which the governing body deems to be necessary to accomplish the desired purposes. The "properties, improvements and facilities" mentioned in this Section 1 are hereinafter referred to as "the Facilities," or "Facilities."

#### Contracts; leases; conveyances and other agreements

Sec. 2. The governing body of the city shall have power and authority to make and enter all contracts, leases, conveyances, contracts of sale, lease-purchase contracts, and any other agreements with respect to the Facilities which said governing body shall deem necessary or convenient to carry out the purposes and powers granted in and by this Act, upon such terms and conditions and for such length or period of time as may be prescribed therein. Any such contract, lease, conveyance, contract of sale, lease-purchase contract, or other agreement may be entered into with any person, real or artificial, any corporation, municipal or public or private (including railroad or railway companies), any governmental agency or bureau (including the United States Government and the State of Texas and political subdivisions of said State), and the governing body may make contracts, leases, conveyances, contracts of sale, lease-purchase contracts, or other agreements with any such persons, corporations, or entities in connection with or incidental to the acquisition, financing, construction, or operation of any of the Facilities. Any and all contracts, leases, conveyances, contracts of sale, lease-purchase contracts, or other agreements herein authorized, to be effective, shall be authorized by ordinance or resolution of the governing board of the city, shall be executed by its mayor (or presiding officer) and attested by its city clerk (or city secretary). Any such contract, lease, conveyance, contract of sale, lease-purchase contract, or other agreement shall be binding upon the city and the governing body thereof, the powers and provisions set forth herein being complete within themselves, without reference to any other statute or statutes.

#### Tax bonds or revenue bonds

Sec. 3. For the purpose of providing funds for any of the Facilities provided in Section 1 hereof, the governing body of the city shall have the power and authority to issue, from time to time, tax bonds or revenue bonds of said city, either or both; provided, however, that no tax bonds (except refunding bonds) shall be issued unless and until they have been authorized at an election at which a majority of the duly qualified resident electors of said city who own taxable property within said city and who have duly rendered the same for taxation, voting at said election.

have voted in favor thereof, said election to be called and held under the provisions of and in accordance with Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as the same is now or may hereafter be amended.

#### Pledge of revenues

Sec. 4. Revenue bonds may be issued, secured solely by a pledge of and payable from the net revenues derived from the operation of or use made of all or any designated part or parts of the Facilities then in existence or to be improved, constructed, or otherwise acquired, with the duty of the city to charge and collect fees, tolls, and other charges, so long as any of the revenue bonds or interest thereon are outstanding and unpaid, sufficient to pay all maintenance and operation expenses of the Facilities (the net revenues of which are pledged to the payment of the bonds), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond ordinance and other proceedings authorizing and relating to the issuance of such bonds. "Net revenues" as used herein shall mean the gross revenues derived from the operation or use made of the Facilities (the net revenues of which are pledged to the payment of the bonds) less the reasonable expenses of maintaining and operating said Facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said Facilities. At the option of the governing body of the city, the proposition or propositions for the issuance of revenue bonds may be submitted at an election called and held as in the case of tax bonds, or such revenue bonds may be issued without the necessity of an election.

#### Ordinances; interest and sinking funds; reserve funds

Sec. 5. In the ordinance adopted by the governing body authorizing the issuance of any revenue bonds and in the proceedings relating thereto, the governing body may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds provided for therein, and may provide where such funds shall be deposited, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of the Facilities (the net revenues of which are pledged), including provision for the leasing of all or any part or parts of said Facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said ordinance and other proceedings may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in said ordinance or other proceedings. Such ordinance and other proceedings may contain such other provisions and covenants, as the governing body shall determine, not prohibited by the Constitution of the State of Texas or by this Act, and the governing body may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of said revenue bonds.

#### Revenue bonds secured by pledge of future revenues

Sec. 6. For the purpose of providing funds for any of the Facilities provided in Section 1 hereof, the governing body of the city shall also have the power to issue, from time to time, revenue bonds payable from and secured by a pledge of the revenues, proceeds, or payments that will

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accrue to or be received by the city under any lease-purchase contract or contract of sale pertaining to any of the Facilities. Bonds may be issued secured solely by such pledge, and bonds may be issued secured not only by such pledge but also by pledges of net revenues as elsewhere provided in this Act. All the provisions of this Act relating to revenue bonds shall, insofar as the same may be made applicable, also apply to bonds issued by the city secured in the manner authorized by this Section 6. The power and authority granted by this Section 6 shall be in addition to other powers and authority granted to the city by this Act and shall not in any way limit such other powers and authority.

**Form of bonds; maturity; examination and approval; registration**

Sec. 7. All bonds of the city (tax bonds and revenue bonds) issued pursuant to the provisions of this Act shall be authorized by ordinance of the governing body of the city, shall be issued in the name of the city, shall be signed by the mayor (or presiding officer) of the city and countersigned by the city clerk (or city secretary), and shall have the seal of the city impressed thereon; provided, that the ordinance authorizing the issuance of such bonds may provide for the bonds to be signed by the facsimile signatures of said officers, either or both, and for the seal of the city on the bonds to be a printed facsimile seal; and provided further that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Said bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and may be sold either at public or private sale (no public advertisement for bids being necessary) at a price and under terms determined by the governing body to be most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard interest tables then currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be issued as non-option bonds, or may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance authorizing the bonds. Such bonds may be made registerable as to principal, or as to both principal and interest.

After bonds have been authorized by the city, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such bonds have been authorized in accordance with this Act, the said Attorney General shall approve the same. After such approval, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any revenue bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the city and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

**Proceeds of sale**

Sec. 8. From the proceeds of sale of any bonds issued under the provisions of this Act, the governing body may appropriate or set aside out

of such proceeds (i) an amount for the payment of interest expected to accrue during the period of construction, (ii) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds, and, (iii) in the case of revenue bonds, such amount or amounts as may be prescribed by the bond ordinance to be deposited into the reserve fund or funds and into any other funds, as specified in said ordinance.

#### **Additional security; mortgage of physical properties**

Sec. 9. As additional security for the payment of any revenue bonds issued hereunder, the governing body of the city may in its discretion have executed in favor of the holders of such revenue bonds an indenture or deed of trust mortgaging and encumbering all or any part of the physical properties comprising the Facilities (the net revenues of which are pledged to the payment of such bonds), including the lands upon which said Facilities are located, and may provide in such mortgage or encumbrance for a grant to any purchaser or purchasers at foreclosure sale of a franchise to operate such Facilities and properties for a term of not over forty (40) years from the date of such purchase, subject to all laws regulating same then in force. Any such indenture or deed of trust may contain such terms and provisions as the governing body shall deem proper and shall be enforceable in the manner provided by the laws of the State of Texas for the enforcement of other mortgages or encumbrances. Under any such sale ordered pursuant to the provisions of such mortgage or encumbrance, the purchaser or purchasers at such sale, and his or their successors or assigns, shall be vested with a permit or franchise conforming to the provisions stipulated in the indenture or deed of trust to maintain the Facilities and properties purchased at such sale with like powers and privileges as may theretofore have been enjoyed by the city in the operation of said Facilities and properties. The purchaser or purchasers of such Facilities and properties at any such sale, and his or their successors and assigns, may operate the same as provided in the last above sentence or may at their option remove all or any part or parts of said Facilities and properties for division to other purposes. The laws of the State of Texas (other than this Act) shall not be applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provisions of this Act, nor to the granting of any franchise hereunder.

#### **Management and control of facilities**

Sec. 10. While any revenue bonds issued under the provisions of this Act or any interest thereon remain outstanding and unpaid, and whether or not there is an indenture or deed of trust mortgaging and encumbering the physical properties comprising the Facilities (the net revenues of which are pledged), as provided in Section 9 hereof, the management and control of such Facilities (and the physical properties comprising the same), by the terms of the ordinance authorizing the issuance of such bonds, may be placed in the hands of the governing body of the city or may be placed in the hands of a board of trustees to be named in such ordinance, consisting of not more than seven (7) members, one (1) of whom shall be a member of the governing body of such city. The compensation of such trustees shall be fixed in the bond ordinance, but shall never exceed five per cent (5%) of the gross revenues of such Facilities. The terms of office of the members of such board of trustees, their powers and duties, the manner of exercising same, the election or appointment of their successors, and all matters pertaining to their organization and duties shall be specified in said ordinance. In all matters where such ordinance



is silent, the laws and rules governing the governing body of the city shall govern said board of trustees so far as applicable.

#### Refunding bonds

Sec. 11. (a) The governing body of the city shall have the power and authority to issue tax bonds for the purpose of refunding any outstanding bonds (original or refunding) issued by the city under the provisions of this Act and accrued interest thereon, and no election therefor shall be necessary. Such refunding bonds may be issued to refund bonds of more than one series or issues of outstanding tax bonds. Such refunding bonds shall bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(b) The governing body of the city shall have the power and authority to issue revenue bonds for the purpose of refunding any outstanding revenue bonds (original or refunding) issued by the city under the provisions of this Act, and accrued interest thereon, and no election therefor shall be necessary. Revenue refunding bonds, at the option of the governing body, may be combined with new or original revenue bonds into one series or issue of bonds. Such revenue refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such revenue refunding bonds may be secured by pledges of other net revenues and additional net revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding revenue bonds which are not to be refunded. Revenue refunding bonds may bear interest at a rate higher than that borne by the bonds refunded; provided, that such interest rate shall not exceed the rate specified in Section 7 of this Act.

(c) Refunding bonds (both tax refunding bonds and revenue refunding bonds) shall be authorized by ordinance of the governing body of the city, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General of the State of Texas as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded; but in lieu thereof, the ordinance authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient, not only to pay the principal of the underlying bonds, but also to pay the interest on the underlying bonds to their option or maturity dates, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. In those situations where the proceeds of revenue refunding bonds are deposited in the place or places where the underlying bonds are payable, they shall be so deposited under an escrow agreement so that such proceeds will be available for the payment of the interest on and principal of said underlying bonds as such interest and principal respectively become due; and such escrow agreement may provide that such proceeds may, until such time as the same are needed to pay interest and principal as the same become due, be invested in direct obligations of the United States of America, in which instances the interest earned on such investments shall be considered as revenues of the Facilities.

(d) When any refunding bonds (both tax refunding bonds and revenue refunding bonds) have been approved by the Attorney General and reg-

istered by the Comptroller of Public Accounts, they shall thereafter be incontestable except for forgery or fraud.

(e) All the provisions of this Act relating to original bonds, insofar as the same may be made applicable, shall also apply to refunding bonds issued hereunder (both tax refunding bonds and revenue refunding bonds).

#### **Applicability of statutes**

Sec. 12. Insofar as the same may be applicable, the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, shall apply to revenue bonds issued under the provisions of this Act, and any city covered by this Act shall have, with respect to revenue bonds issued hereunder, all the powers granted by said Statutes. However, where the provisions of said Statutes are in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail.

#### **Legal and authorized investments**

Sec. 13. All bonds issued under the provisions of this Act (tax bonds and revenue bonds, and original bonds and refunding bonds) shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

#### **Eminent domain**

Sec. 14. The right of eminent domain is hereby expressly conferred upon any city operating under the provisions of this Act, for the purpose of enabling such city to acquire the fee simple title, easement or right-of-way to, over and through any and all lands, water, lands under water, or any other property or properties of any nature whatsoever, private or public (except land and property used for cemetery purposes), which the governing body of the city deems to be necessary for the accomplishment of any of the purposes provided in Section 1 hereof. In the event of the condemnation, or the taking, damaging or destroying of any property for such purposes, the city shall pay to the owner thereof adequate compensation for the property taken, damaged, or destroyed. Compensation and damages adjudicated in any condemnation proceedings, and damages which may be done to the property of any person or corporation in the accomplishment of such purposes may be paid out of funds derived from the sale of any bonds (tax bonds or revenue bonds) issued pursuant to this Act or from any other available funds of the city. All procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending the appeal, etc., shall be in conformity with the procedure prescribed in Title 52, Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and any amendments thereto.

**Cumulative effect**

Sec. 15. This Act is cumulative of all existing laws of the State of Texas that are applicable, but when a city acts under the provisions of this Act, to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail. Moreover, the provisions of this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

**Validation of proceedings and contracts**

Sec. 16. All proceedings heretofore had and all actions heretofore taken and all contracts heretofore entered into by any city relating to any of the matters covered by, or power or authority granted by, the provisions of this Act are hereby in all things validated. It is provided, however, that the validation provisions of this Section 16 shall have no application to litigation pending upon the effective date hereof questioning the validity of any of the matters hereby validated if such litigation is ultimately determined against the validity of the same. Acts 1961, 57th Leg., p. 743, ch. 346.

Emergency. Effective June 16, 1961.	Consent to construct railroad across street or alley, see art. 6330.
Closing streets for use of railroad, see arts. 1018-1020.	Duty to provide crossings, see art. 1151.
Condemnation of right of way for streets, see art. 1149.	Obstructing street or crossing, see Vernon's Ann.P.C. arts. 787, 788.

**CHAPTER TEN—PUBLIC UTILITIES**

**1. CITY OWNED UTILITIES**

Art. 1109i—1. Contract with district for sewage transportation, treatment and disposal services [New].	Art. 1118n—9. Validating city tax bonds for waterworks and sewage systems [New].
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**1. CITY OWNED UTILITIES**

**Art. 1108. [769 to 722] Public utilities**

Acquisition of natural gas system for courthouses and other county buildings, see art. 2372q.

**Art. 1109h. Eligible city authorized to issue revenue bonds; construction and equipment of water supply project**

**Extent of water supply projects; passage of bond issue ordinance; amount of bonds; operation of project**

Sec. 4. The water supply project of the Authority may consist of a dam, reservoir, related outlet facilities, or any or all of such elements, including but without limiting the meaning of the term, lands, easements, flowage rights and interest during construction. When the designs, plans and specifications for the water supply project of the Authority shall have been completed to the extent that they have been approved by the governing body of the Authority, which will actually construct the water supply project, and likewise by the governing body of such city, such eligible city may pass an appropriate ordinance or ordinances authorizing the issuance of its revenue bonds in an amount estimated to cover the entire

cost to be incurred by the Authority in constructing the water supply project, or such portion thereof as the city shall have contracted to provide. Within the discretion of the governing body of such eligible city such revenue bonds may be issued in an amount sufficient to cover the cost of providing all other facilities needed to deliver to the city treated water from the water supply project, including but without limiting the effect of this provision, the intake structure, pumping stations and equipment, pipelines, treatment and filtration plants and all intermediate and terminal reservoirs, intermediate reservoirs to be used wholly or in part for storing water from the water supply project and pumping and pipeline facilities for conveying water to and from such intermediate reservoirs, or any or all of such elements, including but without limiting the meaning of the term, lands, easements and rights-of-way needed for such purposes, and interest during construction. The construction and operation of the water supply project will remain the responsibility of the Authority, and except for such part of said property, if any, as may be owned by such city under the contract between the Authority and such city, such property and facilities shall be owned by the Authority; and except for the water supply project and other facilities specified by contract, city will have the responsibility of constructing and operating, and shall own all of such facilities and property, including the intake, pumping stations, pipelines and equipment, treatment and filtration plants and all intermediate and terminal reservoirs. Within the discretion of such city the bonds may be authorized and sold at one time or in installments from time to time. As amended Acts 1959, 56th Leg., p. 77, ch. 36, § 1; Acts 1961, 57th Leg., 1st C.S., p. 151, ch. 38, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

**Art. 1109i—1. Contract with district for sewage transportation, treatment and disposal services**

**Eligible city**

Section 1. Any city or town, situated wholly or partially within a county containing a District which derives its powers from Article XVI, Section 59 of the Constitution and has statutory authority to make contracts with cities and towns for transportation and disposal of sewage (herein called "District") is an "Eligible City" within the meaning of this Act.

**Contracts authorized; revenues received; disposition**

Sec. 2. An Eligible City, pursuant to an ordinance passed by its governing body, is hereby authorized to make a contract with the District under which the District will make available to and provide for the Eligible City, sewage transportation, treatment and disposal services, or any or all of such services, and when prescribed therein, provision for stand-by service, such contract may also provide for use by the District of sewage transportation, treatment and disposal facilities owned by such city. Such contract may be upon such terms and for such period of time as the parties may agree, and may provide that it will remain in effect until the bonds issued by the District mentioned therein and refunding bonds issued in lieu thereof, are paid. Such a contract may contain such other provisions and requirements as the governing body of such Eligible City may find reasonably necessary to accomplish its purpose. Such city shall have the right to the continued performance of such services after the amortization of the District's investment in such facilities during the use-

ful life thereof, upon payment of charges reduced to take into consideration such amortization.

The revenues received by the District from the participating Eligible Cities shall be used only (1) for payment of principal of and interest on, and to provide reserves created for, the bonds to be issued by District to finance such transportation, treatment and disposal facilities; and (2) to pay the operation and maintenance expenses (including within the meaning of the term, legal, administrative and management supervision fees and expenses) in connection therewith; provided that such part of any surplus accumulated for the benefit of a participating Eligible City, as may be prescribed in contract between such city and the District, may be expended by the District for enlargements and betterments of District's facilities which are used to serve such city.

#### Payments by city to district; operating expense

Sec. 3. Payments by such city to the District shall be made from the city's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as prescribed in the contract between such city and the District, and shall constitute an operating expense of the system or systems whose revenues are thus to be applied. Unless the alternative procedure prescribed in Section 4 is followed, neither the District nor the holder of any bonds of the District shall have the right to demand payment of the city's obligation out of any funds raised or to be raised by taxation.

#### Elections; bond issues

Sec. 4. (a) If an election is held and carried substantially according to the procedure prescribed in Chapter 1, Title 22 of the Revised Civil Statutes, as amended, in reference to the issuance of bonds by cities, determining that the governing body of the city is authorized to execute the proposed contract for sewage transportation, treatment and disposal or for any of such services, and to levy ad valorem taxes to pay such obligation to the District, whether or not the city's obligation is to be credited with application of certain revenues of such system or systems, the contract, in such an event, will constitute an obligation against the taxing power of such city, but may be payable both from taxes and such revenues, as may be prescribed in the contract.

(b) Only qualified electors of the city who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in such Chapter 1, Title 22 of the Revised Civil Statutes as amended, the General Election Laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the contract, and directing the proper officers of the city to sign it.

#### Rates for services

Sec. 5. Whenever any such city shall have executed a contract with the District involving the performance of such duties by the District, if the payments thereunder are to be made either wholly or partly from the revenues of the city's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on such city and it is hereby authorized to establish and maintain and from time to time to adjust the rates charged by the city for the serv-

ices of such system or systems, to the end that the revenues therefrom will be sufficient at all times to pay: the expense of operating and maintaining such system in accordance with current standards and requirements for preventing stream pollution; the city's obligations to District under such contract; and all of such city's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter for such system or systems. Any such contract may require the use of consulting engineers and financial experts to advise the city whether and when such service rates are to be adjusted.

Contract provisions

Sec. 6. Any such contract between the District and such city may provide for services to be rendered concurrently by the District to more than one city through the construction and operation of a multiple city system or plant, the cost for such services to be allocated among the several cities as determined in such contract or group of contracts. It is expressly provided and recognized that all of the compensation to be received by, and all of the security pledged to the District by each such city and all such cities will be available to the District as security for the bonds it will issue to provide necessary construction funds. Acts 1961, 57th Leg., p. 360, ch. 181.

Effective 90 days after May 29, 1961, date of adjournment.

Sanitation and health protection, see art. 4477—1.

Sewer service, contracts with cities, persons, corporations and the federal government, see art. 1118s, § 3.

Water supply, contracts with districts, see arts. 1109d, 1109e.

2. ENCUMBERED CITY SYSTEM

Art. 1118n—9. Validating city tax bonds for waterworks and sewage systems

Section 1. All proceedings in connection with any tax bonds heretofore favorably voted in any city, including any Home Rule City, for the purpose of constructing, improving and extending the waterworks and sewage systems of such city, including the acquisition of property necessary therefor, are hereby in all things validated and said bonds may be issued and delivered by the governing body of any such city for the purpose or purposes so voted and in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, regardless of whether or not any such bonds so voted were submitted in only one proposition and regardless of the wording of the language appearing on the ballots concerning any proposition so submitted.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation. Acts 1961, 57th Leg., p. 714, ch. 337.

Emergency. Effective June 16, 1961.

Bond issue elections, see art. 701 et seq.

Municipal bonds, see art. 823 et seq.

Submission of bond issue proposition, see art. 703.

Validating bonds and proceedings of water improvement districts, see art. 717e.

**CHAPTER ELEVEN—TOWNS AND VILLAGES**

Art.

1153a. Change in designation from town to city [New].

**Art. 1134. [1034] [580] [507] Mode of incorporation**

Change in designation from town to city,  
see art. 1153a.

**Art. 1140. [1042] [587] [514] Powers of corporation**

Change in designation from town to city,  
see art. 1153a.

**Art. 1149. [1066—7] Condemnation for highways**

Grade-level street crossings by railroad lines, elimination, see art. 1105c.

**Art. 1151. [1068] Crossings; duty of railroad**

Grade-level street crossings by railroad lines, elimination, see art. 1105c.

**Art. 1153a. Change in designation from town to city**

Section 1. Any town in this state which has been duly and legally created under the laws relating to cities and towns, and which has heretofore adopted or may hereafter adopt the provisions of Title 28, Revised Civil Statutes of Texas, as amended, may by ordinance passed by the governing body of such town, change its designation from town to city; provided, however, the change in the designation of such town shall in no wise affect its corporate existence or powers.

Sec. 2. Any bonds which have been voted by such town and which bonds are unissued prior to the change of such designation from town to city may be issued in the name of such city as designated in the ordinance changing its designation. Acts 1961, 57th Leg., p. 331, ch. 177.

Emergency. Effective May 17, 1961.

General powers of cities and towns, see art. 962.

Mode of incorporation, see art. 1134.

**CHAPTER THIRTEEN—HOME RULE**

Art.

1174a—5. Validation of amendment of charter; elections and assumption of office; acts of governing boards [New].

1174a—6. Home rule cities with population in excess of 10,000; validation of adoption of charter; election [New].

Art.

1174e. Validation of annexation proceedings of certain home rule cities occurring before March 1, 1961

1176b—3. Validation of ordinances of home rule cities authorizing issuance of time warrants [New].

**Art. 1170. Amendments**

When the governing body desires to submit amendments to any existing charter, said body may on its own motion, in the absence of a petition, and shall, upon the petition of at least ten per cent (10%) of the qualified voters of said city, submit any proposed amendment or amendments to

such charter. The ordinance providing for the submission of such amendment or amendments shall require the submission thereof at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. The form of such notice shall be as prescribed by the governing body or as may be otherwise prescribed by law, and shall include a substantial copy of the proposed amendment or amendments. Every amendment submitted must contain only one subject, and in preparing the ballot for such amendment, it shall be done in such manner that the voter may vote "Yes" or "No" on any amendment or amendments without voting "Yes" or "No" on all of said amendments. Each such proposed amendment, if approved by the majority of the qualified voters voting at said election, shall become a part of the charter of said city. No amendment shall be considered adopted until an official order has been entered upon the records of said city by the governing body thereof declaring the same adopted. As amended Acts 1961, 57th Leg., p. 1108, ch. 500, § 1.

Effective 90 days after May 29, 1961 date of adjournment. Section 2 of the amendatory Act of 1961 repealed art. 1171.

Art. 1171. Repealed. Acts 1961, 57th Leg., p. 1108, ch. 500, § 2. Eff. 90 days after May 29, 1961, date of adjournment

See, now, art. 1170.

Art. 1174a—5. Validation of amendment of charter; elections and assumption of office; acts of governing boards

Section 1. In any instance where a Home Rule City has previously held an election for the purpose of adopting an amendment or amendments to an existing Home Rule Charter, and the Notice of Intention had been published in the official newspaper published in the city one time at least eighteen days prior to the passage of the ordinance calling the election and that the ordinance calling the election was published in an "Extra Edition" of the official newspaper published in the city at least twenty-eight days prior to the date of the election, and copies of the proposed Charter amendment or amendments were mailed to every qualified voter in the city as prescribed by law, and a majority of the qualified voters of said city voted in favor of adopting such amendment or amendments is, and such proceedings are, hereby in all things validated, ratified and confirmed. All elections held under the provisions of said Charter as amended for the purpose of electing members of the governing body of the city and the assumption of office by those persons receiving the highest votes at such election and all elections thereafter and are held to authorize the issuance of bonds in such city are hereby in all things validated. All acts of said officers and officials in any such city are hereby in all things validated and the Charter of any such city as thus amended shall constitute the Charter of such city under the Constitution and Laws of the State of Texas.

Sec. 2. This Act shall not be construed as validating the adoption of any Charter amendment or the Charter as so amended if the validity of



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

the Charter amendment proceedings or the Charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of the state and such litigation is ultimately determined against the validity thereof. Acts 1961, 57th Leg., p. 192, ch. 102.

Emergency. Effective May 5, 1961.

For similar provisions enacted in 1955, see art. 1174a-3.

**Art. 1174a-6. Home rule cities with population in excess of 10,000; validation of adoption of charter; elections**

Section 1. This Act shall apply to every Home Rule City in the State of Texas having a population in excess of ten thousand (10,000) persons according to the 1960 Federal Census, which has adopted or attempted to adopt a new Home Rule Charter. All proceedings had and actions taken in connection with the adoption of said new charter are hereby in all things validated. Without in any way limiting the generalization of the foregoing, it is expressly provided that all election proceedings relating to the adoption of said new charter, at which elections more than a majority of the qualified voters voting at said elections voted in favor of the proposition or propositions submitted at said elections, are hereby in all things validated.

Sec. 2. The validation provisions of this Act shall have no application to litigation pending upon the effective date of this Act questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Acts 1961, 57th Leg., p. 448, ch. 221.

Emergency. Effective May 25, 1961.

**Art. 1174e. Validation of annexation proceedings of certain home rule cities occurring before March 1, 1961.**

Section 1. That all ordinances, resolutions and proceedings passed and adopted and all contracts made pursuant thereto, prior to the 1st day of March, 1961, by a home rule city undertaking to annex adjacent and contiguous territory to its corporate limits by virtue of the provisions of Article 1175 of the Revised Civil Statutes of 1925 and the amendments thereto, or by virtue of the applicable provisions of its city charter, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory, by annexation, shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given.

Sec. 1(a). Nothing herein shall validate any annexation proceedings where no bonds have been voted or issued by the annexing municipality prior to March 1, 1961, and after the commencement of such annexation proceedings.

Sec. 2. The effective date of this Act shall be January 1, 1962, and the provisions of this Act shall not apply to any city if its annexation proceedings are involved in litigation at the time this law becomes effective. Acts 1961, 57th Leg., p. 1009, ch. 439.

Effective Jan. 1, 1962.

**Art. 1176b—3. Validation of ordinances of home rule cities authorizing issuance of time warrants**

This Act shall apply to every city or town incorporated and operating under a Home Rule Charter (hereinafter sometimes referred to as "city"). All ordinances or other proceedings heretofore adopted by the governing body of any city authorizing the issuance of time warrants of said city for the purpose of evidencing the indebtedness of such city for all or part of the cost of purchasing or acquiring, either or both, of rights-of-way for the public streets within said city, including incidental expenses in connection therewith, are hereby in all things validated; and any time warrants heretofore issued pursuant to the terms of any such ordinance or proceedings are hereby in all things validated; and any time warrants hereafter issued pursuant to the terms of any such ordinance or proceedings heretofore adopted shall, when issued, be valid and binding obligations of such city. It is expressly provided, however, that the validation provisions of this Act shall have no application to litigation pending upon the effective date of this Act which questions the legality of any of the matters hereby validated. Acts 1961, 57th Leg., p. 120, ch. 66, § 1.

Emergency. Effective April 10, 1961.

Warrants, validation, see arts. 2368a—1 to 2368a—6.

Validating assessment ordinances for street improvements in certain cities, see art. 1090a.

Warrants for funding indebtedness, see art. 802b—1.

**Art. 1182c—1. Cities which have annexed territory within water control and improvement or supply districts**

**Continued existence of city water boards**

Sec. 2b. City Water Boards, created by Section 6 of Chapter 134, Acts of the 52nd Legislature, Regular Session, 1951,<sup>1</sup> which have remained in existence to preserve vested rights created thereunder, shall, after a relevant city has annexed all the territory of the Water Control and Improvement District whose functions it has assumed and delegated to the City Water Board, remain in existence with its full powers, so long as lands located within its jurisdiction are being used for farming, ranching and/or orchard purposes. Acts 1961, 57th Leg., p. 150, ch. 77, § 1.

<sup>1</sup>Article 7880—147z1 (now repealed).

Emergency. Effective April 19, 1961.

**CHAPTER FOURTEEN—CITIES ON NAVIGABLE STREAMS**

Art.

1187f. Harbor and port facilities; cities and towns of 60,000 or more on Gulf or connecting waters [New].

**Art. 1187a. Construction of bridges over navigable waters**

Pledge of revenue derived from operation of toll bridge, see art. 1015g—1.

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

**Art. 1187a—1. Bonds for International Bridge across Rio Grande validated—additional bonds for repairs and improvements**

Pledge of revenue derived from operation of toll bridge, see art. 1015g—1.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 1187f. Harbor and port facilities; cities and towns of 60,000 or more on Gulf or connecting waters**

**Application of act; authority of city**

Section 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than sixty thousand (60,000) inhabitants according to the Federal Census last preceding the taking of any action by such city under the provisions of this Act. Every such city or town owning and operating port facilities (referred to hereinafter as "city") is hereby empowered and authorized to build, construct, purchase, acquire, improve, enlarge, extend, repair, maintain, or replace any and all improvements and facilities which the governing body thereof deems to be necessary or convenient for the proper operation of the ports or harbors of such city. Without in any way limiting the generalization of the foregoing, it is expressly provided that such improvements and facilities mentioned above shall include lands, properties, wharves, piers, docks, roadways, belt railroads, warehouses, grain elevators, dumping facilities, bunkering facilities, floating plants and facilities, lightering facilities, towing facilities, any and all equipment and supplies, and all other structures, buildings, and facilities which the governing body deems to be necessary or convenient for the proper operation of the ports or harbors of such city. The improvements and facilities mentioned in this Section 1 are hereinafter referred to as the "improvements and facilities."

**Tax bonds and revenue bonds; election**

Sec. 2. For the purpose of providing funds for any of the improvements and facilities provided in Section 1 hereof, the governing body of the city shall have the power and authority to issue from time to time tax bonds or revenue bonds of said city, either or both; provided, however, that no bonds (including refunding bonds) shall be issued unless and until they have been authorized at an election at which a majority of the duly qualified resident electors of said city who own taxable property within said city and who have duly rendered the same for taxation, voting at said election, have voted in favor thereof, said election to be called and held under the provisions of and in accordance with Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as the same is now or may hereafter be amended.

**Pledge of revenues; collection of fees and charges; payment of interest and principal**

Sec. 3. Revenue bonds may be issued secured solely by a pledge of and payable from the net revenues derived from the operation of all or any designated part or parts of the improvements and facilities then in existence or to be improved, constructed, or otherwise acquired, with the duty of the city to charge and collect fees, tolls, and charges, so long as any of the revenue bonds or interest thereon are outstanding and unpaid, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the net revenues of which are pledged), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond ordinance and other proceedings authorizing and relating to the issuance of such bonds. "Net revenues" as used herein shall mean the gross revenues derived from the operation of those improvements and facilities the net revenues of which are pledged to the payment of the bonds

less (a) the reasonable expenses of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities, and (b) if the city is operating under a Home Rule Charter, any annual payment of the city as may be set out in said Charter.

**Interest, sinking and reserve funds; additional bonds; surplus revenues**

Sec. 4. In the ordinance adopted by the governing body authorizing the issuance of any revenue bonds and in the proceedings relating thereto, the governing body may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds provided for therein, and may provide where such funds shall be deposited, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the net revenues of which are pledged), including provision for the leasing of all or any part or parts of said improvements and facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said ordinance and other proceedings may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in said ordinance or other proceedings. Said ordinance and other proceedings may provide for an annual payment to the general fund of the city of such an amount as may be specified in said ordinance or as may be specified in the Home Rule Charter of the city if it is operating under such a Charter, said annual payment to be made from revenues received from the operation of the improvements and facilities (the net revenues of which are pledged to the payment of the bonds). Said ordinance and other proceedings may also provide that surplus net revenues received from the operation of the improvements and facilities (the net revenues of which are pledged) may be used for the payment of interest on and principal of any tax bonds issued by the city under this Act. Such ordinance and other proceedings may contain such other provisions and covenants, as the governing body shall determine, not prohibited by the Constitution of the State of Texas or by this Act (provided, however, that if the city is operating under a Home Rule Charter and said Charter contains provisions relating to the improvements and facilities, such ordinance and other proceedings shall be in keeping with such Charter provisions if such Charter provisions are not inconsistent with the provisions of this Act); and the governing body may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of said revenue bonds.

**Ordinance authorizing bonds; form of bonds; maturity; interest; examination and approval; registration**

Sec. 5. All bonds of the city (tax bonds and revenue bonds) issued pursuant to the provisions of this Act shall be authorized by ordinance of the governing body of the city, shall be issued in the name of the city, shall be signed by the mayor (or presiding officer) of the city and countersigned by the city secretary (or city clerk), and shall have the seal of the city impressed thereon; provided, that the ordinance authorizing the issuance of such bonds may provide for the bonds to be signed by the facsimile signatures of said officers, either or both, and for the seal of

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the city on the bonds to be a printed facsimile seal; and provided further that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Said bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and shall be sold at public sale at a price and under terms determined by the governing body to be the most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard interest tables then currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance authorizing the bonds. Such bonds may be made registrable as to principal, or as to both principal and interest.

After bonds have been authorized by the city such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such bonds have been authorized in accordance with this Act, the said Attorney General shall approve the same. After such approval, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any revenue bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts (including lease contracts) made between the city and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

#### Proceeds of sale

Sec. 6. From the proceeds of sale of any bonds issued under the provisions of this Act, the governing body may appropriate or set aside out of such proceeds (i) an amount for the payment of interest expected to accrue during the period of construction, (ii) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds, and, (iii) in the case of revenue bonds, such amount or amounts as may be prescribed by the bond ordinance to be deposited into the reserve fund or funds and into any other funds, as specified in said ordinance.

#### Outstanding bonds; unpaid interest

Sec. 7. While any revenue bonds issued under the provisions of this Act or any interest thereon remain outstanding and unpaid, the management and control of such improvements and facilities (and the physical properties comprising the same), by the terms of the ordinance authorizing the issuance of such bonds, may be placed in the hands of the governing body of the city or may be placed in the hands of a board of trustees to be named in such ordinance, consisting of not more than seven (7) members, one (1) of whom shall be a member of the governing body of such city; provided, if the city is operating under a Home Rule Charter and said Charter contains provisions requiring that the improve-

ments and facilities be managed or controlled by a board of trustees, then the provisions of such Charter shall be followed. The compensation of the members of the board of trustees, the terms of office of such members, their powers and duties, the manner of exercising the same, the election or appointment of their successors, and all matters pertaining to their organization and duties shall be specified in said ordinance; provided, if the city is operating under a Home Rule Charter as mentioned above and the Charter contains provisions relating to any of the foregoing matters mentioned in this sentence, it is expressly provided that the provisions of such ordinance relating to such matters shall be in accordance with and governed by the Charter provisions. In all matters where such ordinance or Charter are silent, the laws and rules governing the governing body of the city shall govern said board of trustees so far as applicable.

Refunding bonds; ordinance; approval and registration

Sec. 8. (a) The governing body of the city shall have the power and authority to issue tax bonds for the purpose of refunding any outstanding tax bonds (original or refunding) issued by the city under the provisions of this Act and accrued interest thereon. Such refunding bonds may be issued to refund bonds of more than one series or issues of outstanding tax bonds. Such refunding bonds shall bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(b) The governing body of the city shall have the power and authority to issue revenue bonds for the purpose of refunding any outstanding revenue bonds (original or refunding) issued by the city under the provisions of this Act, or heretofore issued for any of the purposes covered by Section 1 of this Act or payable from the revenues of any of the improvements and facilities covered by said Section 1, and accrued interest thereon. Revenue refunding bonds, at the option of the governing body, may be combined with new or original revenue bonds into one series or issue of bonds. Such revenue refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such revenue refunding bonds may be secured by pledges of other net revenues and additional net revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding revenue bonds which are not to be refunded. Revenue refunding bonds may bear interest at a rate higher than that borne by the bonds refunded; provided, that such interest rate shall not exceed the rate specified in Section 6 of this Act.

(c) Refunding bonds (both tax refunding bonds and revenue refunding bonds) shall be authorized by ordinance of the governing body of the city, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General of the State of Texas as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded; but in lieu thereof, the ordinance authorizing their issuance may provide that they shall be sold at public sale and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient, not only to pay the principal of the underlying bonds, but also to pay the interest on the underlying bonds to their option or maturity dates, and the Comptroller

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of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. In those situations where the proceeds of revenue refunding bonds are deposited in the place or places where the underlying bonds are payable, they shall be so deposited under an escrow agreement so that such proceeds will be available for the payment of the interest on and principal of said underlying bonds as such interest and principal respectively become due; and such escrow agreement may provide that such proceeds may, until such time as the same are needed to pay interest and principal as the same become due, be invested in direct obligations of the United States of America, in which instances the interest earned on such investments shall be considered as revenues of the improvements and facilities.

(d) When any refunding bonds (both tax refunding bonds and revenue refunding bonds) have been approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall thereafter be incontestable except for forgery or fraud.

(e) All the provisions of this Act relating to original bonds, insofar as the same may be made applicable, shall also apply to refunding bonds issued hereunder (both tax refunding bonds and revenue refunding bonds).

#### **Applicability of statutes; mortgage of properties**

Sec. 9. Insofar as the same may be applicable, the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, shall apply to revenue bonds issued under the provisions of this Act, and any city covered by this Act shall have, with respect to revenue bonds issued hereunder, all the powers granted by said Statutes. However, where the provisions of said Statutes are in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail. Further, it is expressly provided that the city shall have no power or authority to mortgage or encumber the physical properties of the improvements and facilities.

#### **Legal and authorized investments**

Sec. 10. All bonds issued under the provisions of this Act (tax bonds and revenue bonds, and original bonds and refunding bonds) shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

#### **Cumulative effect**

Sec. 11. This Act is cumulative of all existing laws of the State of Texas that are applicable, but when a city acts under the provisions of this Act, to the extent that such existing laws may be in conflict or in-

consistent with the provisions of this Act, the provisions of this Act shall govern and prevail.

**Validation of bonds and proceedings**

Sec. 12. Any revenue bonds heretofore issued by a city which are payable from the revenues of any of the improvements and facilities covered by Section 1 hereof, and all the proceedings relating to such bonds, are hereby in all things validated. It is provided, however, that the validation provisions of this Section 12 shall have no application to litigation pending upon the effective date hereof questioning the validity of the matters hereby validated if such litigation is ultimately determined against the validity of the same. Acts 1961, 57th Leg., p. 724, ch. 341.

Emergency. Effective June 16, 1961.	Harbors, ports or navigational facilities, city revenue bonds, see art. 1187e.
Harbor and dock facilities of cities of 5,000 or less on Gulf or connecting waters, see art. 835f.	Municipal bonds, see art. 823.
Harbor bonds, see art. 835.	Public utilities, encumbered city system, see art. 1111 et seq.

**CHAPTER SIXTEEN—CORPORATION COURT**

**Art. 1200c. Cities having over 380,000 population in counties having over 800,000 population**

**Establishment; number; judges**

Section 1. All incorporated cities of this State having a population in excess of three hundred eighty thousand (380,000) and being in a county having a population in excess of eight hundred thousand (800,000) according to the last preceding United States Census may, by an ordinance legally adopted, provide for the establishment of two (2) or more corporation courts, not to exceed one (1) court for each eighty thousand (80,000) population according to the last preceding census. The Mayor of any such city shall have the power to appoint two (2) or more judges for each such court and designate the seniority of the judges, with the confirmation of the governing body of the city, so that any of such courts may be in concurrent or continuous session either day or night. As amended Acts 1961, 57th Leg., p. 396, ch. 199, § 1.

Emergency. Effective May 23, 1961.

**CHAPTER TWENTY—MISCELLANEOUS PROVISIONS**

**Art. 1266. Discontinuing territory**

Whenever there exists within the corporate limits of any city in this state of four thousand (4,000) or more population according to the preceding Federal Census located in a county having a population according to such census in excess of two hundred and five thousand (205,000) territory to the extent of at least three (3) acres contiguous, unimproved and adjoining the lines of any such city, or wherever there exists within the corporate limits of any city in this state of five hundred and ninety-six thousand (596,000) or more population according to the last preceding Federal Census, improved territory which is non-taxable to the city and which is contiguous and adjoining the lines of any such city, the governing body of any such city, whether organized by Special Law, home rule charter, or General Laws of this state, may by ordinance duly passed discontinue said territory as a part of any such city. When said ordinance



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has been duly passed, the governing body shall cause to be entered an order to that effect on the minutes or records of such city; and from and after the entry of such order, said territory shall cease to be a part of such city. As amended Acts 1959, 55th Leg., p. 563, ch. 254, § 1; Acts 1961, 57th Leg., 1st C.S., p. 152, ch. 39, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

**Art. 1269j—5. Airport revenue bonds; cities with population over 70,000**

Sec. 4(a). Bonds issued by any city having a population of one hundred fifty thousand (150,000) or more, according to the last preceding Federal Census, pursuant to the provisions of this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations and all insurance companies. 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, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto. Added Acts 1961, 57th Leg., p. 1183, ch. 535, § 1.

Emergency. Effective June 17, 1961.

**CHAPTER TWENTY-ONE—HOUSING**

**Art. 1269l—2. State department of health; planning and assistance for political subdivisions; acceptance of federal grants for housing**

The Texas State Department of Health is hereby authorized, upon the request of the governing body of any political subdivision or the authorized agency of any group of political subdivisions: (a) to arrange planning assistance (including surveys, community renewal plans, technical services, and other planning work) and to arrange for the making of a study or report upon any planning problem of any such political subdivision or political subdivisions submitted to the State Department of Health, provided, however, that the employees of the State Department of Health shall not themselves make such surveys, studies, or reports; (b) to agree with such governing body or the agency of such governing bodies as to the amount, if any, to be paid to the State Department of Health for such service; and (c) to apply for and accept grants from the Federal Government or other sources in connection with any such assistance, study, or report, and to contract with respect thereto. The regular functions of the Texas State Department of Health may be utilized in this program, provided that any additional employees shall be paid from sources other than General Revenue Funds of the State. Acts 1957, 55th Leg., p. 235, ch. 112, § 1, as amended Acts 1961, 57th Leg., p. 162, ch. 83, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**TITLE 30—COMMISSION MERCHANTS**

**Art. 1285. Bond recorded**

*Repeal of fee provisions, see art. 3930a, note.*

**BUSINESS CORPORATION ACT****PART FOUR**

Art.

- 4.14. Amendment of Articles of Incorporation in Reorganization Proceedings [New].

**PART ONE**

Miscellaneous corporation laws, see Vernon's Ann.Civ.St. arts. 1302—1.01 to 1302—6.26.

**Article 1.01. Short Title, Captions, Parts, Articles, Sections, Subsections, and Paragraphs**

Trust companies, applicability of this act to, see Vernon's Ann.Civ.St. art. 1513a.

**Art. 1.02. Definitions**

Corporation, definition, see also, V.A.T.S. Non-Profit Corp. Act, art. 1.02.

**PART TWO****Art. 2.29. Voting of Shares**

C. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney in fact. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. A proxy shall be revocable unless expressly provided therein to be irrevocable and unless otherwise made irrevocable by law. As amended Acts 1961, 57th Leg., p. 423, ch. 206, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

D. (1) At each election for directors of any domestic corporation which was created under or adopted the provisions of this Texas Business Corporation Act prior to the effective date of Senate Bill No. 129 of the 55th Legislature every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or, unless expressly prohibited by the articles of incorporation, to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal or by distributing such votes on the same principle among any number of such candidates.

(2) At each election for directors of any domestic corporation which is created under, adopts, or becomes subject to the provisions of this Texas Business Corporation Act after the effective date of Senate Bill No. 129 of the 55th Legislature every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or, if expressly authorized by the articles of incorporation, to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number

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of his shares shall equal or by distributing such votes on the same principle among any number of such candidates.

(3) Any shareholder who is authorized and intends to cumulate his votes shall give written notice of such intention to the secretary of the corporation on or before the day preceding the election at which such shareholder intends to cumulate his votes. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 4A.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

*Amendment by Acts 1961, 57th Leg., p. 893, ch. 393, § 1, effective June 1, 1964, see section D, post.*

D. (1) At each election for directors every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or unless expressly prohibited by the articles of incorporation to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by his shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

(2) No amendment of the articles of incorporation prohibiting the right of cumulative voting shall be effective unless at least sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the outstanding shares of each class of stock entitled to vote upon such amendment shall have been voted in favor of such amendment.

(3) Any shareholder who intends to cumulate his votes as herein authorized shall give written notice of such intention to the secretary of the corporation on or before the day preceding the election at which such shareholder intends to cumulate his votes. As amended Acts 1961, 57th Leg., p. 893, ch. 393, § 1.

Emergency. Effective June 1, 1964.

*Amendment by Acts 1957, 55th Leg., p. 111, ch. 54, § A, effective until June 1, 1964, see section D, ante.*

#### Art. 2.30. Voting Trust

B. Any number of shareholders may enter into a voting agreement in writing for the purpose of voting their shares as a unit, in the manner prescribed in the agreement, on any matter submitted to a vote at a meeting of the shareholders for a period not exceeding ten (10) years from the date of the execution of the agreement. A counterpart of the agreement shall be deposited with the corporation at its principal office and shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation. Each certificate representing shares held by the parties to the agreement shall contain a statement that the shares represented by the certificate are subject to the provisions of a voting agreement, a counterpart of which has been deposited with the corporation at its principal office. Upon such deposit of the counterpart of the agreement and endorsement of the prescribed statement upon the certificates representing shares, the agreement shall be specifically enforceable in accordance with the principles of equity. Added Acts 1961, 57th Leg., p. 423, ch. 206, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

## PART FOUR

## Art. 4.14. Amendment of Articles of Incorporation in Reorganization Proceedings

A. Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this Article, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

B. In particular, and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(1) Change the corporate name, period of duration, or corporate purposes of the corporation.

(2) Repeal, alter, or amend the bylaws of the corporation.

(3) Change the aggregate number of shares, or shares of any class, which the corporation has authority to issue.

(4) Change the preferences, limitations, and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify, or cancel all or any part thereof, whether issued or unissued.

(5) Authorize the issuance of bonds, debentures, or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof.

(6) Constitute or reconstitute and classify or reclassify the board of directors and officers in place of or in addition to all or any of the directors or officers then in office.

C. Amendments to the articles of incorporation pursuant to this Article shall be made in the following manner:

(1) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(2) Duplicate originals of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, he shall, when all fees and franchise taxes have been paid as prescribed by law:

(a) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(b) File one of such duplicate originals in his office.

(c) Issue a certificate of amendment to which he shall affix the other duplicate original.

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(3) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Secretary of State, shall be returned to the corporation or its representative.

D. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation. Added Acts 1961, 57th Leg., p. 423, ch. 206, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

#### PART FIVE

##### Art. 5.01. Procedure for Merger of Domestic Corporations

Stock insurers, mergers or consolidations, see V.A.T.S. Insurance Code, art. 21.25.

#### PART SEVEN

##### Art. 7.02. Notification to Attorney General, Notice to Corporation and Opportunity of Corporation to Cure Default

Abatement of suit, miscellaneous corporation laws, see Vernon's Ann.Civ.St. art. 1302—5.09.

##### Art. 7.04. Appointment of Receiver for Specific Corporate Assets

Receiver, miscellaneous corporation laws, see Vernon's Ann.Civ.St. art. 1302—5.10.

##### Art. 7.05. Appointment of Receiver to Rehabilitate Corporation

###### A. (1)

(e) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election and qualification of their successors. Added Acts 1961, 57th Leg., p. 319, ch. 169, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### PART EIGHT

##### Art. 8.03. Corporate Name of Foreign Corporation

A. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(1) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one (1) of such words, or such corporation shall, for use in this State, add at the end of its name one (1) of such words or an abbreviation thereof.

(2) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this State or of any foreign corporation authorized to transact business in this State, or a

name the exclusive right to which is, at the time, reserved in the manner provided in this Act; provided that a name may be similar if written consent is obtained from the existing corporation having the name deemed to be similar or the person, or corporation, for whom the name deemed to be similar is reserved in the office of the Secretary of State. As amended Acts 1961, 57th Leg., p. 423, ch. 206, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

**PART TEN**

**Art. 10.01. Filing Fees**

A. The Secretary of State is authorized and required to collect for the use of the state the following filing fees upon filing the following documents filed pursuant to the provisions of this Act:

(1) Filing articles of incorporation of a domestic corporation and issuing a certificate of incorporation, Fifty Dollars (\$50).

(2) Filing articles of amendment of a domestic corporation and issuing a certificate of amendment, Fifty Dollars (\$50).

(3) Filing articles of merger or consolidation, whether the surviving or new corporation be a domestic or foreign corporation, One Hundred Dollars (\$100).

(4) Filing an application of a foreign corporation for an original or renewal of a certificate of authority to transact business in this state and issuing such a certificate of authority, Fifty Dollars (\$50).

(5) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing such an amended certificate of authority, Fifty Dollars (\$50).

(6) Filing a copy of an amendment or supplement to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, Fifty Dollars (\$50).

(7) Filing restated articles of incorporation of a domestic or foreign corporation, One Hundred Dollars (\$100).

(8) Filing application for reservation of corporate name and issuing certificate therefor, Five Dollars (\$5).

(9) Filing notice of transfer of reserved corporate name and issuing a certificate therefor, Five Dollars (\$5).

(10) Filing application for registration of corporate name and issuing certificate therefor, Twenty-five Dollars (\$25).

(11) Filing application for renewal of registration of corporate name and issuing certificate therefor, Twenty-five Dollars (\$25).

(12) Filing statement of change of registered office or registered agent, or both, Five Dollars (\$5).

(13) Filing statement of resolution establishing series of shares or filing statement of provisions to be incorporated by reference, Five Dollars (\$5).

(14) Filing statement of cancellation of redeemable shares, Five Dollars (\$5).

(15) Filing statement of cancellation of reacquired shares, Five Dollars (\$5).

(16) Filing statement of reduction of stated capital, Five Dollars (\$5).

(17) Filing articles of dissolution by incorporators and issuing certificate therefor, Five Dollars (\$5).

(18) Filing statement of intent to dissolve, Five Dollars (\$5).

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(19) Filing statement of revocation of voluntary dissolution proceedings, Five Dollars (\$5).

(20) Filing articles of dissolution and issuing certificate therefor, Five Dollars (\$5).

(21) Filing application for withdrawal and issuing certificate therefor, Five Dollars (\$5).

(22) Maintaining record of service of any process, notice or demand upon the Secretary of State as agent for foreign and domestic corporations and for any foreign association, joint stock company, partnership, or non-resident natural person, Five Dollars (\$5). As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 13; Acts 1961, 57th Leg., p. 451, ch. 224, § 1.

Emergency. Effective May 25, 1961.

Secretary of state, fees, see Vernon's Ann.Civ.St. art. 3914.

**TEXAS NON-PROFIT CORPORATION ACT****Art. 2.01. Purposes**

A. Except as hereinafter in this Article expressly excluded herefrom, non-profit corporations may be organized under this Act for any lawful purpose or purposes, which purposes shall be fully stated in the articles of incorporation. Such purpose or purposes may include, without being limited to, any one or more of the following: charitable, benevolent, religious, eleemosynary, patriotic, civic, missionary, educational, scientific, social, fraternal, athletic, aesthetic, agricultural and horticultural; and the conduct of professional, commercial, industrial, or trade associations; and animal husbandry. Subject to the provisions of Chapter 2, Title 83, of the Revised Civil Statutes of Texas, 1925, and of such Chapter or any part thereof as it may hereafter be amended, a corporation may be organized under this Act if any one or more of its purposes for the conduct of its affairs in this State is to organize laborers, working men, or wage earners to protect themselves in their various pursuits. Provided, however, that no articles of incorporation shall be issued hereafter to laborers, working men or wage earners, or amendment granted to a charter or articles of incorporation of a corporation previously created to organize laborers, working men or wage earners, or that may be created hereafter under this Act to organize laborers, working men or wage earners, by the Secretary of State to any person, association or corporation for such purposes without an investigation first having been made by the Labor Commissioner concerning such application and a favorable recommendation made thereon by said Labor Commissioner to the Secretary of State. No investigation or recommendation by the Labor Commissioner shall be required or made of applications from farmers for articles of incorporation.

(1). Charitable corporations may be formed for the purpose of operating a Dental Health Service Corporation which service corporation will manage and coordinate the relationship between the contracting dentist, who will perform the dental services, and the patient who will receive such services where such patient is a member of a group which has contracted with the Dental Health Service Corporation to provide dental care to members of that group. An application for a charter under this Section shall have attached as exhibits (1) an affidavit by the applicants that not less than thirty percent (30%) of the dentists legally engaged in the practice of dentistry in this state together with their names and addresses have signed contracts to perform the required dental services for a period of not less than one (1) year, after incorporation, and (2) a certification by the Texas State Board of Dental Examiners that the applicant incorporators are reputable citizens of the State of Texas and are of good moral character and that the corporation sought to be formed will be in the best interest of the public health. A corporation formed hereunder shall have not less than twelve (12) directors, nine (9) of whom shall be dentists licensed by the Texas State Board of Dental Examiners to practice dentistry in this state and be actively engaged in the practice of dentistry in this state. A corporation formed hereunder shall maintain not less than thirty percent (30%) of the number of dentists actually engaged in the practice of dentistry in this state as participating or contracting dentists, and shall file with the Texas State Board of Dental Examiners each September the names and addresses of all contracting or participating dentists.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

B. This Act shall not apply to any corporation, nor may any corporation be organized under this Act or obtain authority to conduct its affairs in this State under this Act:

(1) If any one or more of its purposes for the conduct of its affairs in this State is expressly forbidden by any law of this State.

(2) If any one or more of its purposes for the conduct of its affairs in this State is to engage in any activity which cannot lawfully be engaged in without first obtaining a license under the authority of the laws of this State to engage in such activity and such license cannot lawfully be granted to a corporation.

(3) If any one or more of its purposes for the conduct of its affairs in this State is to organize Group Hospital Service, Rural Credit Unions, Agricultural and Livestock Pools, Mutual Loan Corporations, Co-operative Credit Associations, Farmers' Co-operative Societies, Co-operative Marketing Act Corporations, Rural Electric Co-operative Corporations, Telephone Co-operative Corporations, or fraternal organizations operating under the lodge system and heretofore or hereafter incorporated under Articles 1399 through 1407, both inclusive, of Revised Civil Statutes of Texas, 1925.

(4) If any one or more of its purposes for the conduct of its affairs in this State is to operate a bank under the banking laws of this State or to operate an insurance company of any type or character that operates under the insurance laws of this State.

(5) If any one or more of its purposes for the conduct of its affairs in this State is to engage in water or sewer service and it has heretofore or is hereafter incorporated under the Acts of 1933, Forty-third Legislature, First Called Session, Chapter 76, as amended, Acts of 1941, Forty-seventh Legislature, page 666, Chapter 407, being presently identified as Article 1434(a), Revised Civil Statutes of Texas, 1925. As amended Acts 1961, 57th Leg., p. 959, ch. 418, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

The 1961 amendatory Act added subsection (1) after subsection A.

Section 2 of the 1961 amendatory Act amended Vernon's Ann.P.C. art. 753(8), and section 3 amended art. 4551b(8).

Corporations to which this Act applies, see art. 10.04.

Dental health service corporations, see Vernon's Ann.P.C. art. 753(8); Vernon's Ann.Civ.St. art. 4551b.

Educational corporations, see Vernon's Ann.Civ.St. art. 1302—3.02.

### Art. 2.08. Members

A. A corporation may have one or more classes of members or may have no members.

B. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment, and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or by-laws.

C. If the corporation is to have no members, that fact shall be set forth in the articles of incorporation.

D. A corporation may issue certificates, or cards, or other instruments evidencing membership rights, voting rights or ownership rights as may be authorized in the articles of incorporation or in the by-laws.

E. The members of a non-profit corporation shall not be personally liable for the debts, liabilities, or obligations of the corporation. As amended Acts 1961, 57th Leg., p. 653, ch. 302, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

The 1961 amendatory Act added section E.

**Art. 9.03. Fees for Filing Documents and Issuing Certificates**

A. The Secretary of State shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation, Twenty-five Dollars (\$25); provided that the filing fee in the case of a church shall be Ten Dollars (\$10).
- (2) Filing articles of amendment and issuing a certificate of amendment, Twenty-five Dollars (\$25); provided that the filing fee in the case of a church shall be Ten Dollars (\$10).
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, Fifty Dollars (\$50).
- (4) Filing a statement of change of address of registered office or change of registered agent, or both, Five Dollars (\$5).
- (5) Filing articles of dissolution, Five Dollars (\$5).
- (6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, Twenty-five Dollars (\$25).
- (7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, Twenty-five Dollars (\$25).
- (8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, Twenty-five Dollars (\$25).
- (9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, Fifty Dollars (\$50).
- (10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, Five Dollars (\$5).
- (11) Filing any other statement or report of a domestic or foreign corporation, Five Dollars (\$5).
- (12) Filing restatement of articles of incorporation, Fifty Dollars (\$50); provided that the filing fee in the case of a church shall be Twenty Dollars (\$20). As amended Acts 1961, 57th Leg., p. 450, ch. 223, § 1.

Emergency. Effective May 25, 1961.

Fees payable to the secretary of state, see Vernon's Ann.Civ.St. arts. 3914, 3915.

Secretary of state, fees, see Vernon's Ann.Civ.St. art. 3914.

**Art. 10.04. To What Corporations This Act Applies; Procedure for Adoption of Act by Existing Corporation**

G. This Act shall not apply to those corporations excepted under Article 2.01 B, Subsections (3), (4), and (5) of this Act; provided however, that if any of said excepted domestic corporations were heretofore or are hereafter organized not for profit under special statutes which contain no provisions in regard to some of the matters provided for in this Act, or if such special statutes specifically applicable provide that the general laws for incorporation shall supplement the provisions of such statutes, then the provisions of this Act shall apply to the extent that they are not inconsistent with the provisions of such special statutes. As amended Acts 1961, 57th Leg., p. 653, ch. 302, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

The 1961 amendatory Act added section G.

## TITLE 32—CORPORATIONS

Chap

Art.

I. Texas Miscellaneous Corporation Laws Act ..... (302—1.01)

## CHAPTER ONE—TEXAS MISCELLANEOUS CORPORATION

## LAWS ACT [NEW]

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*Articles 1302-1.01 to 1302-6.26, the Texas Miscellaneous Corporation Laws Act, were added by Acts 1961, 57th Leg., ch. 205, p. 408, § 1.*

*Various existing articles applicable to corporations were repealed by Acts 1961, 57th Leg., p. 408, c. 205, § 2 and Acts 1961, 57th Leg., p. 458, ch. 229, § 1.*

**TABLE—DISPOSITION**

Showing where provisions of former articles are incorporated in the Texas Miscellaneous Corporation Laws Act.

Former Article	New Article	Former Article	New Article
1304a	1302-3.01	1358-26	1302-6.26
1306	1302-2.01	1359	1302-4.01
1307	1302-2.02	1360	1302-4.02
1317	1302-2.03	1361	1302-4.03
1321a	1302-2.04	1362	1302-4.04
1334b	1302-2.05	1363	1302-4.05
1358-1	1302-6.02	1364	1302-4.06
1358-2	1302-6.03	1365	1302-4.07
1358-3	1302-6.04	1366	1302-5.01
1358-4	1302-6.05	1367	1302-5.02
1358-5	1302-6.06	1368	1302-5.03
1358-6	1302-6.07	1369	1302-5.04
1358-7	1302-6.08	1370	1302-5.05
1358-8	1302-6.09	1371	1302-5.06
1358-9	1302-6.10	1372	1302-5.07
1358-10	1302-6.11	1373	1302-5.08
1358-11	1302-6.12	1374	1302-5.09
1358-12	1302-6.13	1375	1302-5.10
1358-13	1302-6.14	1376	1302-5.11
1358-14	1302-6.15	1377	1302-5.12
1358-15	1302-6.16	1378	1302-5.13
1358-16	1302-6.17	1380	1302-5.14
1358-17	1302-6.18	1381	1302-5.15
1358-18	1302-6.19	1382	1302-5.16
1358-19	1302-6.20	1383	
1358-20	1302-6.21	1384	1302-5.17
1358-21	1302-6.22	1385	1302-5.18
1358-22	1302-6.23	1386	1302-5.19
1358-23	1302-6.24	1410	1302-3.02A
1358-24	1302-6.25	1411	1302-3.02B
1358-25	1302-6.01	1531	1302-2.08

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

## TABLE—DERIVATION

Showing derivation of provisions of the Texas Miscellaneous Corporation Laws Act.

New Article	Former Article	New Article	Former Article
1302—1.01	—	1302—5.13	1378
1302—1.02	—	1302—5.14	1380
1302—2.01	1306	1302—5.15	1381
1302—2.02	1307	1302—5.16	1382
1302—2.03	1317	1302—5.17	1384
1302—2.04	1321a	1302—5.18	1385
1302—2.05	1334b	1302—5.19	1386
1302—2.06	—	1302—6.01	1358—25
1302—2.07	—	1302—6.02	1358—1
1302—2.08	1531	1302—6.03	1358—2
1302—3.01	1304a	1302—6.04	1358—3
1302—3.02	1410, 1411	1302—6.05	1358—4
1302—3.03	—	1302—6.06	1358—5
1302—3.04	—	1302—6.07	1358—6
1302—3.05	—	1302—6.08	1358—7
1302—4.01	1359	1302—6.09	1358—8
1302—4.02	1360	1302—6.10	1358—9
1302—4.03	1361	1302—6.11	1358—10
1302—4.04	1362	1302—6.12	1358—11
1302—4.05	1363	1302—6.13	1358—12
1302—4.06	1364	1302—6.14	1358—13
1302—4.07	1365	1302—6.15	1358—14
1302—5.01	1366	1302—6.16	1358—15
1302—5.02	1357	1302—6.17	1358—16
1302—5.03	1368	1302—6.18	1358—17
1302—5.04	1369	1302—6.19	1358—18
1302—5.05	1370	1302—6.20	1358—19
1302—5.06	1371	1302—6.21	1358—20
1302—5.07	1372	1302—6.22	1358—21
1302—5.08	1373	1302—6.23	1358—22
1302—5.09	1374	1302—6.24	1358—23
1302—5.10	1375	1302—6.25	1358—24
1302—5.11	1376	1302—6.26	1358—26
1302—5.12	1377		

Business corporations, see Business Corporation Act, Vol. 3A.

Non-profit corporations, see Non-Profit Corporation Act, pocket part to Vol. 3A.

## PART ONE

## Article 1302—1.01. Short Title, Captions, Parts, Articles, Sections, Subsections, and Paragraphs

A. This Act shall be known and may be cited as the "Texas Miscellaneous Corporation Laws Act."

B. The division of this Act into Parts, Articles, Sections, Subsections and Paragraphs and the use of captions in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Act.

C. This Act has been organized and subdivided in the following manner:

(1) The Act is divided into Parts, containing groups of related Articles. Parts are numbered consecutively with cardinal numbers.

(2) The Act is also divided into Articles, numbered consecutively with Arabic numerals.

(3) Articles are divided into Sections. The Sections within each Article are numbered consecutively with capital letters.

(4) Sections are divided into Subsections. The Subsections within each Section are numbered consecutively with Arabic numerals enclosed in parentheses.

(5) Subsections are divided into paragraphs. The Paragraphs within each Subsection are numbered consecutively with lower case letters enclosed in parentheses. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Acts 1961, 57th Leg. p. 408, ch. 205, § 2 provided:

"Sec. 2. The following Statutes and Laws contained in Title 32 of the Texas Revised Civil Statutes, 1925, as amended, or contained in legislative acts subsequent to such revision and codified in Title 32, also as amended, are supplanted by the provisions of this Act and are hereby repealed:

"Acts 1935, Forty-fourth Legislature, page 416, Chapter 167 (Article 1304a);

"Article 1306;

"Article 1307 and as amended by Acts, 1931, Forty-second Legislature, page 190, Chapter 111;

"Article 1317;

"Acts 1931, Forty-second Legislature, page 738, Chapter 288, Section 1 (Article 1321a);

"Acts 1955, Fifty-fourth Legislature, page 1161, Chapter 444 (Article 1334b);

Article 1410;

Article 1411;

Article 1359;

"Article 1360 and as amended by Acts, 1959, Fifty-sixth Legislature, page 104, Chapter 53, Section 1;

Article 1361;

Article 1362;

Article 1363;

Article 1364;

Article 1365;

Article 1366;

Article 1367;

Article 1368;

Article 1369;

Article 1370;

Article 1371;

Article 1372;

Article 1373;

"Acts 1943, Forty-eighth Legislature, page 722, Chapter 397 (Articles 1358—1 through 28);

"Article 1531."

Effect of repeal, see italicized note under former art. 1304a.

Article 1374;

Article 1375;

Article 1376;

Article 1377;

Article 1378;

Article 1380;

Article 1381;

Article 1382;

Article 1383;

Article 1384;

Article 1385;

Article 1386;

### Art. 1302—1.02. Synonymous Terms

A. Whether used in this Act or in other Acts and statutes applicable to private corporations:

(1) "Charter" has the same meaning as "articles of incorporation."

(2) "Paid-up capital" has the same meaning as "stated capital."

(3) "Capital stock" may mean, depending on the context, "stated capital," "authorized shares," "authorized and issued shares," or "issued shares."

(4) "Permit to do business" and "certificate of authority" have the same meaning.

(5) "Stockholder" and "shareholder" have the same meaning.

(6) "Stock" and "shares of stock" have the same meaning as "shares."

(7) "Authorized capital stock" has the same meaning as "authorized shares."

(8) "No par shares" means the same as "shares without par value."

Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Definitions, business corporations, see V.A.T.S. Bus.Corp.Act., art. 1.02.

### Art. 1302—1.03. Applicability of Business Corporation Act, Texas Non-Profit Corporation Act, and this Act

A. All corporations shall, to the extent not inconsistent with any special statute pertaining to a particular corporation, be governed

(1) by the Texas Business Corporation Act, as amended, if organized for profit, and

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(2) by the Texas Non-Profit Corporation Act, as amended, if organized not for profit.

B. This Act shall govern all foreign and domestic corporations including but without being limited to those corporations heretofore or hereafter organized or granted a permit to do business under any Statute of the State, including the Texas Business Corporation Act, or the Texas Non-Profit Corporation Act, except to the extent that any provisions of this Act are expressly made inapplicable by any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, or any special Statute of this State pertaining to a particular type of corporation. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

## PART TWO

### Article 1302—2.01. Married Women

A. Married women may be shareholders, officers, and directors of a corporation and may sign articles of incorporation and all other corporate instruments. Their acts, contracts, and deeds as such shareholders, officers, and directors shall be as binding and effective for all purposes of the corporation as if they were males. The joinder and consent of the husband and privy examinations separate and apart from him shall not be required. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

### Art. 1302—2.02. Notice by Firm

A. Whenever any banking, mercantile or other business firm desires to become incorporated without a change of firm name, such firm shall, in addition to the notice of dissolution required at Common Law, give notice of such intention to become incorporated for at least four (4) consecutive weeks in some newspaper published at the seat of State Government, and in the county in which such firm has its principal business office, if there be a newspaper in such county; and, if not, then in some newspaper published in some adjoining county; provided, however, that such notice shall only be published one (1) day in each week during the said four (4) weeks. Until such notice has been so published for the full period above-named, no change shall take place in the liability of such firm or the members thereof. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

### Art. 1302—2.03. Ostensible Corporation; Debt

A. No person who assumes an obligation to an ostensible corporation as such, shall resist the enforcement of such obligation, on the ground that there was in fact no such corporation, until that fact shall have been adjudged in a direct proceeding had for that purpose. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

### Art. 1302—2.04. Construction of Provision as to Exclusive Right of Trustee to Sue

A. Provisions in deeds of trust, indentures, mortgages, assignments, and transfers of property executed to secure the payment of bonds, debentures, or other obligations, issued thereunder, vesting in the trustees named therein the exclusive right to institute any and all suits, at law or in equity, necessary or proper to enforce the covenants and agreements therein made, or to liquidate the trust therein created, and denying to the holders of such bonds, debentures, and obligations the right to

institute or prosecute such suit or suits, or to liquidate such trust until after a failure or refusal of such trustee so to do, upon request made in the manner provided for therein, shall not be construed as agreements to oust the courts of this State of their rightful jurisdiction, nor as agreements against the public policy of this State. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—2.05. Bonds, Debentures and other Evidence of Indebtedness; Manner of Issuance; Facsimile Signatures and Seal**

A. Where any private corporation organized under the laws of this State hereafter issues any bond, debenture, or other evidence of indebtedness, the seal of the corporation thereon may be facsimile, engraved, or printed, and where any such bond, debenture, or other evidence of indebtedness is authenticated with the manual signature of any authorized officer of the corporation or other trustee appointed or named by an indenture of trust or other agreement under which such security is issued, the signature of any of the corporation's officers authorized to execute such security may be facsimile. In case any officer who signed, or whose facsimile signature has been used on any such bond, debenture, or other evidence of indebtedness shall cease to be an officer of the corporation for any reason before the same has been delivered by the corporation, such bond, debenture, or other evidence of indebtedness may nevertheless be adopted by the corporation and issued and delivered as though the person who signed it or whose facsimile signature has been used thereon had not ceased to be such officer. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—2.06. Consideration for Indebtedness**

A. No corporation, domestic or foreign, doing business in this State shall create any indebtedness whatever except for money paid, labor done, which is reasonable<sup>1</sup> worth at least the sum at which it was taken by the corporation, or property actually received, reasonable<sup>1</sup> worth at least the sum at which it was taken by the corporation. In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for any such indebtedness shall be conclusive. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

<sup>1</sup> So in enrolled bill.

Indebtedness, see also art. 1348.

**Art. 1302—2.07. Limited Survival after Dissolution**

A. A corporation dissolved (1) by the issuance of a certificate of dissolution by the Secretary of State, or (2) by a decree of court when the court has not liquidated all the assets and business of the corporation as provided in the Texas Business Corporation Act or the Texas Non-Profit Corporation Act, as the case may be, or (3) by expiration of its period of duration, shall continue its corporate existence for a period of three (3) years from the date of dissolution, for the following purposes:

(1) prosecuting or defending in its corporate name any action or proceeding by or against the corporation;

(2) permitting the survival of any remedy not otherwise barred by limitations available to or against such corporations, its officers, directors, shareholders, members, or creditors, for any right or claim existing, or any liability incurred, prior to such dissolution;

(3) holding title to and liquidating any assets or property inadvertently or otherwise omitted from any prior distributions in liquidation to



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

the shareholders or so omitted from prior distributions made by a non-profit corporation in accordance with a plan of distribution during the period of liquidation prior to dissolution, and distributing them to any shareholders, members, or other persons entitled thereto; and

(4) settling any other affairs not completed prior to its dissolution.

However, such corporation shall not continue its corporate existence for the purpose of continuing the business or affairs for which the corporation was organized, except in the case of a corporation whose period of duration has expired and which has chosen to revive its existence as provided in the Texas Business Corporation Act or the Texas Non-Profit Corporation Act, as the case may be.

B. During such period, the board of directors serving at the time of dissolution or the majority of them then living, however reduced in number, or their successors selected by them, shall continue to manage the affairs of the corporation for the limited purpose or purposes specified in this Article, and shall have whatever powers may be necessary to accomplish such purposes, including the power to prosecute, pay, compromise, defend, and satisfy any action, claim, demand, or judgment by or against the corporation, and to administer, sell, and distribute in final liquidation any property or assets still remaining. In the exercise of such powers, the directors and officers shall be trustees for the benefit of creditors, shareholders, members, or other distributees of the corporation and shall be jointly and severally liable to such persons to the extent of the corporate property and assets that shall have come into their hands.

C. If after the expiration of the three-year period there still remains unresolved any action or proceeding not otherwise barred by limitations commenced by or against the corporation prior to its dissolution or within three (3) years after the date of its dissolution, the corporation shall continue to survive only for the purpose of such action or proceeding, until any judgment, orders, or decrees therein shall be fully executed.

D. A corporation dissolved by the expiration of the period of its duration may, during such three-year period, amend its articles of incorporation by following the procedure prescribed in the Texas Business Corporation Act or in the Texas Non-Profit Corporation Act, as the case may be, so as to extend or perpetuate its period of existence. Such expiration shall not of itself create any vested right on the part of any shareholder, member, or creditor to prevent such action. No acts or contracts of a corporation during a period within which it could have extended its existence as permitted by this Article, whether or not it has taken action so to extend its existence, shall be in any degree invalidated by the expiration of its period of duration. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Voluntary dissolution by incorporators,  
see V.A.T.S. Bus.Corp.Act, art. 6.01.

#### Art. 1302—2.08. Affidavit of a Foreign Corporation

A. As a part of the application of a foreign corporation, whether for profit or not for profit, for a certificate of authority, its president, vice president, secretary or treasurer, or two of the directors thereof, shall make and file in the office of the Secretary of State an affidavit stating that such corporation is not a trust or organization in restraint of trade in violation of the laws of this State, has not within twelve (12) months next preceding the making of such affidavit, become or been a part to any trust agreement of any kind which would constitute a violation of any antitrust law of Texas existing at the date of such affidavit, and has not within that time, entered into or been in any wise a party to, any com-

bination in restraint of trade within the United States, and that no officer of such corporation has, within the knowledge of affiant, within such time and on behalf of such corporation or for its benefit, made any such contract, or entered into or become a party to any such combination in restraint of trade. The jurat of the officer making such affidavit shall be attested by his official signature and seal of office. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Foreign corporations generally, see V.A.  
T.S. Bus.Corp.Act art. 8.01 et seq.

### PART THREE

#### Article 1302—3.01. Veteran Corporations; Use of Name; Forfeiture of Charter

A. The Secretary of State shall not hereafter issue to any corporation any charter using in the name thereof any of the following words either in the singular or the plural: "Veteran," "Legion," "Foreign," "Spanish," "Disabled," "War," "World War," or any abbreviation of such word or words, or words of the same or similar meanings, without the written approval filed with the application for charter of some Congressionally recognized Veterans' organization, in whose name any such quoted word appears, and if there be no Congressionally recognized organization in whose name the prohibited word appears, then it shall be necessary to secure the written permission of either the State Commander of the American Legion, or Disabled American Veterans of the World War, Veterans of Foreign Wars of the United States, or the United Spanish War Veterans, Veterans of Foreign Wars, or Veterans of the Spanish-American War. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—3.02. Educational Corporations

A. The president, professors or principals shall constitute the faculty in academy, college, or university corporations, and shall have power to enforce the rules and regulations enacted by the directors or trustees for the government and discipline of the students, and to suspend and expel offenders, as may be deemed necessary.

B. The directors or trustees named in the charter of any college, academy, university, or other corporation to promote education, and their successors, may make all necessary bylaws, elect and employ officers, provide for filling vacancies, appoint and remove professors, teachers, agents, etc., and fix their compensation, confer degrees, and do and perform all necessary acts to carry into effect the objects of the corporation. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—3.03. Cemeteries

A. Corporations organized under Acts, 1945, Forty-ninth Legislature, page 559, Chapter 340, as amended, shall, to the extent not inconsistent therewith, be governed by the Texas Business Corporation Act, as amended, if organized for profit, and by the Texas Non-Profit Corporation Act, as amended, if organized not for profit. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Cemeteries, generally, see art. 912a—1  
et seq.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 1302—3.04. Detective Agencies; Bond Required**

A. Before a certificate of incorporation or a certificate of authority to transact business in this State shall be issued to any corporation organized or sought to be organized for any purpose or purposes which include the operation of a detective agency, its incorporators or its officer, as the case may be, shall have executed a good and sufficient surety bond or insurance policy (in the event of a bond to be signed by some good solvent bonding company authorized to do business in this State, and in the event of an insurance policy to be executed by some good solvent insurance company authorized to do business in this State) and deliver the same to the Secretary of State. Said surety bond or insurance policy shall be in the sum of Ten Thousand Dollars (\$10,000) and shall be conditioned that the obligor therein will pay to the extent of the face amount of such surety bond or insurance policy all judgments which may be recovered against said detective agency by reason of the wrongful or illegal acts of its servants, officers, agents, or employees, committed by them in the course of their employment. Said surety bond or insurance policy shall further be conditioned that such person so injured shall have the right to sue directly upon such surety bond or insurance policy in their own name, and the same shall be subject to successive suits for recovery until a complete exhaustion of the face amount thereof. Each such detective agency shall on or before the date of the expiration of the terms of any surety bond or insurance policy so filed by such agency file a renewal thereof, or a new surety bond or insurance policy containing the same terms or obligations of the preceding surety bond or policy, and shall each year thereafter, on or before the expiration date of the existing surety bond or insurance policy, file such renewal surety bond or insurance policy so as to provide continuous security to persons so injured, and in the event any such detective agency fails to execute any surety bond or insurance policy in the first instance, or to execute any renewal surety bond or insurance policy, or to file the same with the Secretary of State as provided herein, it shall constitute grounds for the forfeiture of the articles of incorporation of a domestic corporation and of the certificate of authority of a foreign corporation in a suit to be instituted at the instance of the Attorney General. Nothing herein shall be construed to authorize the agents, servants, officers, or employees of such corporation to have the power of peace officers in this State unless such powers be conferred thereon under the provisions of some other law of this State. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—3.05. Certain Railroads**

A. Corporations for profit may be organized for the following purposes:

(1) To construct or acquire with power to maintain and operate street railways and suburban railways and belt lines of railways within and near cities and towns, for the transportation of freight and passengers, with power also to construct, own and operate union depots, and to buy, sell and convey right-of-way upon which to construct railroads.

(2) To construct, acquire, maintain and operate lines of electric, gas, or gasoline, denatured alcohol, or naphtha motor railways within and between any cities or towns, and any interurban railways within and between cities and towns, in this State, for the transportation of freight or passengers, or both.

(3) To build, maintain and operate a line of railroads to mines, gins, quarries, manufacturing plants, or mills.

(4) The construction, operation and maintenance of terminal rail-ways. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Incorporation of railroads, see art. 6259.

#### PART FOUR

##### Article 1302—4.01. Conditions of Purchase of Lands

A. No private corporation shall be permitted to purchase any lands under any provision of this Part, unless the lands so purchased are necessary to enable such corporation to do business in this State, or except where such land is purchased in due course of business to secure the payment of debt. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

##### Art. 1302—4.02. Sale of Surplus Lands

A. All private corporations authorized by the laws of Texas to do business in this State, whose main purpose is not the acquisition or ownership of lands, which have or may acquire by lease, purchase, or otherwise, more land than is necessary to enable them to carry on their business, shall within fifteen (15) years from the date said land may be acquired, in good faith, sell and convey in fee simple all lands so acquired which are not necessary for the transaction of the business. Notwithstanding any other provisions of this Part, it shall be lawful for such surplus lands to be conveyed and acquired by another corporation which may have among its purposes the acquisition, development and sale of such surplus lands, provided, however, that any such acquiring corporation shall in good faith sell and convey any such land on or before the expiration of the aforesaid fifteen-year period just as the conveying corporation would have had to do if it had not conveyed such land to such acquiring corporation, and if such acquiring corporation does not so convey such land on or before such time, it shall thereafter hold the same subject to the same forfeiture and escheat provisions provided for in this Part as though such lands were still held by the conveying corporation. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

##### Art. 1302—4.03. Liquidation of Land Acquired in Payment of Debts

A. Any lands acquired by corporations in payment of debts due such corporations shall be sold and conveyed as provided in this Part within fifteen (15) years from the date of the acquisition of such land. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

##### Art. 1302—4.04. Corporations Prohibited

A. No private corporation heretofore or hereafter chartered or created whose main purpose of business is the acquisition or ownership of land by purchase, lease or otherwise, shall hereafter be permitted to acquire any land within this State by purchase, lease, or otherwise. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

##### Art. 1302—4.05. Town Lot Corporations

A. Nothing in this Part shall be construed to prohibit the lease, purchase, sale or subdivision of real property within incorporated towns, cities, or villages, and their suburbs not extending more than two (2) miles beyond their corporate limits, by corporations whose charters authorize them to lease, purchase, sell and subdivide real estate, within towns, cities and

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villages, and their suburbs, whether the suburbs be stated to be measured from the limits merely, or the corporate limits, of such towns, cities and villages. All such corporations now existing, or which may hereafter be created shall be authorized to lease, sell or subdivide real property in any unincorporated city, town, or village, or the suburbs thereof, within this State, not exceeding two (2) miles in any direction from the courthouse, or depot nearest the center of such city, town, or village, or from the center thereof, if there be no courthouse or depot. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—4.06. Escheat Proceedings

A. All corporations holding lands contrary to the provisions of this Part shall hold the same subject to forfeiture and escheat proceedings. The Attorney General, or any district or county attorney, when either of them has reason to believe that any corporation is holding lands in violation of this Part, shall institute suit in the name of the State of Texas, in Travis County, or in any county in Texas where such corporation may have an agent, or in any county where any part of the land may be situated, against such corporation, as is provided for the escheat of estates of deceased persons without devise thereof and having no heirs. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Escheat of funds of dissolved or liquidated corporation, see V.A.T.S. Bus. Corp. Act, art. 7.11.

#### Art. 1302—4.07. Disposition of Penalties

A. If it be determined upon the trial of said suit that lands are held contrary to this Part, the court trying said cause shall enter judgment condemning such lands and ordering them to be sold as under execution; the proceeds of such sale to be first applied to the payment of costs of such suit, and the balance to be paid into the State Treasury subject to be paid to the stockholders or person entitled to receive the same as owners, upon proper proof made within twelve (12) months from date of sale. If the legal representatives of such corporation fail to claim the said balance of money realized on sale of said land, then it shall escheat to the State and be applied to the Available School Fund. The court trying said cause shall allow the attorney representing the State a reasonable fee, to be taxed as cost in the suit. In no case shall the State be liable for costs or fees unless it is successful in said suit. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

### PART FIVE

#### Article 1302—5.01. Authority of Attorney General to Examine Books, Records, etc.

A. Every corporation, domestic or foreign, doing business in Texas, shall permit the Attorney General or any of his authorized assistants or representatives, to make examination of all the books, accounts, records, minutes, letters, memoranda, documents, checks, vouchers, telegrams, constitution and bylaws, and other records of said corporation as he may deem necessary. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Books and records, see V.A.T.S. Bus. Corp. Act, art. 2.44.

**Art. 1302—5.02. Request to Examine**

A. A written request shall be made to the president or other officer of said corporation at the time the Attorney General or his assistants desire to examine the business of said corporation. It shall be the duty of the officer or agent of any corporation to whom said request is presented to immediately permit the Attorney General, or his authorized assistant or representative, to inspect and examine all the said books, records, and other documents of said corporation. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.03. Authority to Examine Management, etc., of Corporation**

A. The Attorney General, or any of his assistants or representatives, when authorized by the Attorney General, has the power and authority to make investigation into the organization, conduct and management of any corporation authorized to do business within this State, and has authority to inspect and examine any of its said books, records, and other documents, and take such copies thereof as in his judgment may show or tend to show said corporation has been or is engaged in acts or conduct in violation of its charter rights and privileges, or in violation of any law of this State. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.04. Authority to Disclose**

A. The Attorney General, or his authorized assistants or representatives, shall not make public, or use said copies or any information derived in the course of said examination of said records or documents, except in the course of some judicial proceedings in which the State is a party, or in a suit by the State to cancel the permit or forfeit the charter of such corporation, or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.05. Penalty**

A. Any foreign corporation doing business in Texas under a permit granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Attorney General, or his authorized representative or representatives, to examine or take copies of any of its said books, records and other documents whether the same be situated within this or any other state within the United States, shall thereby forfeit its right to do business in his State; and its permit or charter shall be canceled or forfeited. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.06. Provisions Cumulative**

A. The provisions of Articles 5.01, 5.02, 5.03, 5.04, and 5.05 of this Part shall be cumulative of all other laws now in force in this State, and shall not be construed as repealing any other means afforded by law for securing testimony or inquiring into the charter rights and privileges of corporations. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.07. Lien for Law Violations**

A. Whenever any domestic or foreign corporation in this State shall violate any law of this State, including the law against trusts, monopolies and conspiracies or combinations or contracts in restraint of trade, for

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the violation of which fines or penalties or forfeitures are provided, all property of such corporation within this State at the time of such violation, or which may thereafter come within this State, shall, by reason of such violation, become liable for such fines or penalties and for costs of suit and costs of collection. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—5.08. Date of Lien and Notice

A. The State of Texas shall have a lien on all such property from the date that suit shall be instituted by the Attorney General or district or county attorney acting under his direction, in any court of competent jurisdiction within this State, for the purpose of forfeiting the charter or canceling the permit of such corporation, or for such fines or penalties. The institution of such suit for such fine, penalties or forfeiture, shall constitute notice of such lien. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—5.09. Abatement of Suit

A. Any action or cause of action for any fine, forfeiture or penalty that the State of Texas has, or may have, against any corporation chartered under the laws of this or any other State, territory or nation, shall not abate or become abated by reason of the dissolution of such corporation, whether voluntary or otherwise, or by the forfeiture of its charter or permit. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Abatement of action for dissolution or action before judgment, see V.A.T.S. Bus. revocation of certificate, cure by corporate Corp.Act, art. 7.02.

#### Art. 1302—5.10. Receiver

A. Whenever a corporation, against which the State has instituted suit for forfeiture of its charter or cancellation of its permit or for fines or penalties, shall dissolve in this or any other state, or shall have a judgment rendered against it in this or any other state for the forfeiture of its charter, the court in this State in which such suit is pending shall appoint a receiver for the property and business of such corporation within this State, or that may come or be brought within this State during such receivership; or the court may, in any case wherein the State is suing any such corporation for the forfeiture of its charter, or of its permit to do business in this State, or for fines or penalties, appoint a receiver for such corporation whenever the interest of the State may seem to require such action. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Receivers, generally, see V.A.T.S. Bus. Corp. Act, arts. 7.04 to 7.10.

#### Art. 1302—5.11. Rights of State

A. The State shall have the right to writs of attachment, garnishment, sequestration or injunction, without bond, to aid in the enforcement of its rights created by Articles 5.07, 5.08, 5.09, and 5.10 of this Part; and all property not otherwise exempt by law that may come into the possession of any receiver appointed under any provision of such Articles, shall be subject to the lien herein created, and for the payment of any such fine or penalty. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—5.12. Foreclosure

A. The Attorney General or any district or county attorney acting under his direction, may bring suit in the name of this State for foreclosure of such lien. In case the suit for foreclosure is brought against

any corporation which has dissolved or had a judgment for the forfeiture of its charter or the cancellation of its permit rendered against it, pending any suit by the State of Texas against such corporation for the forfeiture of its charter or cancellation of its permit or for penalties or fines, service may be had upon any person within this State who acted and was acting as agent of any such corporation in this State at the time of such dissolution or forfeiture of charter or cancellation of permit. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.13. Law Cumulative**

A. The rights and remedies given by Articles 5.07, 5.08, 5.09, 5.10, 5.11, and 5.12 of this Part shall be construed as cumulative of all other laws in force in this State, and shall not affect, change or repeal any other remedies or rights now existing in this State for the enforcement, payment or collection of fines, penalties and forfeitures. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.14. Authority of Attorney General to Proceed Against an Insolvent Corporation**

A. The Attorney General, when convinced that any corporation is insolvent, shall institute quo warranto or other appropriate proceedings to forfeit its charter or cancel its permit. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.15. Liquidation**

A. Each district and county attorney shall bring and prosecute the proceedings mentioned in the preceding Article whenever directed to do so by the Attorney General. The court trying said cause, after the corporation has been shown to be insolvent, may, in its discretion, appoint a receiver or receivers for said corporation and all its properties, with full power to settle its affairs, collect its outstanding debts and divide the moneys and other properties belonging to said company among the stockholders thereof, after paying the debts due and owing by such corporation, and all expenses incident to the judicial proceedings and receivership. The court may continue the existence of such corporation for three (3) years, and for such further reasonable time as may be necessary to accomplish the objects and purposes of this law. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.16. May Dismiss Action**

A. If any suit authorized by Articles 5.14 and 5.15 of this Part has been instituted, the same shall be dismissed at the cost of the defendant; or, if not instituted, the same shall not be begun, if the defendant corporation, through its stockholders, shall pay off its indebtedness or reduce the same by paying, so that it is relieved of insolvency. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—5.17. Permission to Sue**

A. Before such petition is filed by the Attorney General, or under his authority, as provided in Articles 5.14 and 5.15 of this Part, leave therefor shall first be granted by the judge of the court in which the proceeding is to be instituted. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.



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#### Art. 1302—5.18. Examination and Notice

A. On presentation of such petition, before granting leave to sue, the judge shall carefully examine the same; and he may also require an examination into the facts; and if it shall be made to appear with reasonable certainty from said petition, or from the petition and facts, that the relief sought should be granted, the judge may grant such relief. On an application for the appointment of a receiver, the corporation proceeded against shall have ten full days' notice prior to the day set for the hearing. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—5.19. Provisions Cumulative

A. The rights and remedies given by Articles 5.14, 5.15, 5.16, 5.17, and 5.18 of this Part are cumulative, and shall not affect, change or repeal any other remedies or rights now existing in this State for the enforcement, payment or collection of fines, forfeitures and penalties. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

### PART SIX

#### Article 1302—6.01. Short Title

A. The Articles in this Part constitute and may be cited as the "Uniform Stock Transfer Act." Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Uniform Act for fiduciary security transfers, see art. 582—1.

#### Art. 1302—6.02. How Title Transferred

A. Title to a certificate and to the shares represented thereby can be transferred only:

(1) by delivery of the certificate indorsed either in blank or to a specified person by the person appearing by the certificate to be the owner of the shares represented thereby; or

(2) by delivery of the certificate and a separate document containing a written assignment of the certificate or a power of attorney to sell, assign, or transfer the same or the shares represented thereby, signed by the person appearing by the certificate to be the owner of the shares represented thereby. Such assignment or power of attorney may be either in blank or to a specified person.

B. The provisions of this Article shall be applicable, although the charter or articles of incorporation or code of regulations or bylaws of the corporation issuing the certificate and the certificate itself provide that the shares represented thereby shall be transferable only on the book of the corporation or shall be registered by a registrar or transferred by a transfer agent. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

#### Art. 1302—6.03. Powers of Persons Lacking Full Legal Capacity and of Fiduciaries not Enlarged

A. Nothing in this Part shall be construed as enlarging the powers of an infant or other person lacking full legal capacity, or of a trustee, executor, or administrator, or other fiduciary, to make a valid indorsement, assignment or power of attorney. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.04. Corporation not Forbidden to Treat Registered Holder as Owner**

A. Nothing in this Part shall be construed as forbidding a corporation:

(1) to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner; or

(2) to hold liable for calls and assessments a person registered on its books as the owner of shares. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.05. Title Derived from Certificate Extinguishes Title Derived from Separate Document**

A. The title of a transferee of a certificate under a power of attorney or assignment not written upon the certificate, and the title of any person claiming under such transferee, shall cease and terminate if, at any time prior to the surrender of the certificate to the corporation issuing it, another person, for value in good faith, and without notice of the prior transfer, shall purchase and obtain delivery of such certificate with the indorsement of the person appearing by the certificate to be the owner thereof, or shall purchase and obtain delivery of such certificate and the written assignment or power of attorney of such person, though contained in a separate document. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.06. Persons Who May Effectually Deliver Certificate**

A. The delivery of a certificate to transfer title in accordance with the provisions of Article 6.02 is effectual, except as provided in Article 6.08, though made by one having no right of possession and having no authority from the owner of the certificate or from the person purporting to transfer the title. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.07. Indorsement Effectual Notwithstanding Fraud, Duress, Mistake, Revocation, Death, Incapacity or Lack of Consideration**

A. The indorsement of a certificate by the person appearing by the certificate to be the owner of the shares represented thereby is effectual, except as provided in Article 6.08, though the indorser or transferor:

(1) was induced by fraud, duress or mistake to make the indorsement or delivery; or

(2) has revoked the delivery of the certificate, or the authority given by the indorsement or delivery of the certificate; or

(3) has died or become legally incapacitated after the indorsement, whether before or after the delivery of the certificate; or

(4) has received no consideration. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.08. Rescission of Transfer**

A. If the indorsement or delivery of a certificate:

(1) was procured by fraud or duress; or

(2) was made under such mistake as to make the indorsement or delivery inequitable; or if the delivery of a certificate was made:

(3) without authority from the owner; or

(4) after the owner's death or legal incapacity, the possession of the certificate may be reclaimed and the transfer thereof rescinded, unless:

(a) the certificate has been transferred to a purchaser for value in good faith without notice of any facts making the transfer wrongful; or

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(b) the injured person has elected to waive the injury, or has been guilty of laches in endeavoring to enforce his rights.

B. Any court of appropriate jurisdiction may enforce specifically such right to reclaim the possession of the certificate or to rescind the transfer thereof and, pending litigation, may enjoin the further transfer of the certificate or impound it. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.09. Rescission of Transfer as Affecting Subsequent Transfer by Transferee in Possession to Good Faith Purchaser**

A. Although the transfer of a certificate or of shares represented thereby has been rescinded or set aside, nevertheless, if the transferee has possession of the certificate or of a new certificate representing part or the whole of the same shares of stock, a subsequent transfer of such certificate by the transferee, mediately or immediately, to a purchaser for value in good faith, without notice of any facts making the transfer wrongful, shall give such purchaser an indefeasible right to the certificate and the shares represented thereby. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.10. Delivery of Unindorsed Certificate Imposes Obligation to Indorse**

A. The delivery of a certificate by the person appearing by the certificate to be the owner thereof without the indorsement requisite for the transfer of the certificate and the shares represented thereby, but with intent to transfer such certificate or shares, shall impose an obligation, in the absence of an agreement to the contrary, upon the person so delivering to complete the transfer by making the necessary indorsement. The transfer shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.11. Attempted Transfer Without Delivery as Promise to Transfer**

A. An attempted transfer of title to a certificate or to the shares represented thereby without delivery of the certificate shall have the effect of a promise to transfer and the obligation, if any, imposed by such promise shall be determined by the law governing the formation and performance of contracts. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.12. Warranties on Transfer of Certificate or Assignment of Secured Claim**

A. A person who for value transfers a certificate, including one who assigns for value a claim secured by a certificate, unless a contrary intention appears, warrants:

- (1) that the certificate is genuine;
- (2) that he has a legal right to transfer it; and
- (3) that he has no knowledge of any fact which would impair the validity of the certificate.

B. In the case of an assignment of a claim secured by a certificate, the liability of the assignor upon such warranty shall not exceed the amount of the claim. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.13. Holder of Certificate as Security, by Accepting Payment of Debt, does not Warrant Genuineness or Value**

A. A mortgagee, pledgee, or other holder for security of a certificate who in good faith demands or receives payment of the debt for which such certificate is security, whether from a party to a draft drawn for such debt, or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such certificate, or the value of the shares represented thereby. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.14. Attachment or Levy; New Certificates**

A. No attachment or levy upon shares of stock for which a certificate is outstanding shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined. Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.15. Creditor's Remedies to Reach Certificate**

A. A creditor whose debtor is the owner of a certificate shall be entitled to such aid from courts of appropriate jurisdiction, by injunction and otherwise, in attaching such certificate or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which cannot be readily attached or levied upon by ordinary legal process. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.16. Lien or Restriction must be Stated on Certificate**

A. There shall be no lien in favor of a corporation upon the shares represented by a certificate issued by such corporation and there shall be no restriction upon the transfer of shares so represented by virtue of any bylaws of such corporation, or otherwise, unless the right of the corporation to such lien or the restriction is stated upon the certificate. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.17. Alteration of Certificate**

A. The alteration of a certificate, whether fraudulent or not and by whomsoever made, shall not deprive the owner of his title to the certificate and the shares originally represented thereby, and the transfer of such certificate shall convey to the transferee a good title to such certificate and to the shares originally represented thereby. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.18. Lost or Destroyed Certificate**

A. Where a certificate has been lost or destroyed, a court of competent jurisdiction may order the issue of a new certificate therefor on service of process upon the corporation and on reasonable notice by publication, and in any other way which the court may direct, to all persons interested, and upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the corporation or any person injured by the issue of the new certificate from any liability or expense, which it or they may incur by reason of the original certificate remaining outstanding. The court may also in its discretion order the payment of the corporation's reasonable costs and counsel fees.

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B. The issue of a new certificate under an order of the court as provided in this Article shall not relieve the corporation from liability in damages to a person to whom the original certificate has been or shall be transferred for value without notice of the proceedings or of the issuance of the new certificate. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.19. Law Governing in Cases not Provided for by this Part**

A. In any case not provided for by this Part, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.20. Construction of this Part**

A. This Part shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.21. Indorsement**

A. A certificate is indorsed when an assignment or a power of attorney to sell, assign, or transfer the certificate or the shares represented thereby is written on the certificate and signed by the person appearing by the certificate to be the owner of the shares represented thereby, or when the signature of such person is written without more upon the back of the certificate. In any of such cases a certificate is indorsed though it has not been delivered. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.22. Owner of Certificate**

A. The person to whom a certificate was originally issued is the person appearing by the certificate to be the owner thereof, and of the shares represented thereby, until and unless he indorses the certificate to another specified person, and thereupon such other specified person is the person appearing by the certificate to be the owner thereof until and unless he also indorses the certificate to another specified person. Subsequent special indorsements may be made with like effect. Acts 1961, 47th Leg., p. 408, ch. 205, § 1.

**Art. 1302—6.23. This Part Inapplicable to Building and Loan Associations**

A. It is expressly provided that this Part shall not apply to shares, share accounts, certificates or pass books issued by a building and loan association organized under the laws of this State nor to shares, share accounts, certificates or pass books issued by a building and loan association organized under the laws of any State that is doing business in Texas, nor to shares, share accounts, certificates or pass books issued by a Federal Savings and Loan Association domiciled in this State. That the repealing section of this Part shall not be construed as repealing any section, part or parcel of the 1929 Building and Loan Code, as amended, nor any Act of the Legislature pertaining to building and loan associations. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Building and loan associations, generally, see art. 852 et seq.

Art. 1302—6.24. Definitions

A. In this Part, unless the context or subject matter otherwise requires:

“Certificate” means a certificate of stock in a corporation organized under the laws of this State or of another state whose laws are consistent with this Part.

“Delivery” means voluntary transfer of possession from one person to another.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Shares” means a share or shares of stock in a corporation organized under the laws of this State or of another state whose laws are consistent with this Part.

“State” includes state, territory, district and insular possession of the United States.

“Transfer” means transfer of legal title.

“Title” means legal title and does not include a merely equitable or beneficial ownership or interest.

“Value” is any consideration sufficient to support a simple contract.

An antecedent or pre-existing obligation, whether for money or not, constitutes value where a certificate is taken either in satisfaction thereof or as security therefor.

B. A thing is done “in good faith” within the meaning of this Part, when it is in fact done honestly, whether it be done negligently or not. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Art. 1302—6.25. Prior Certificates not Affected

Art. 6.25. Prior Certificates not Affected.

A. The provisions of this Part apply only to certificates issued after the taking effect of Acts, 1943, Forty-eighth Legislature, page 722, Chapter 397. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Art. 1302—6.26. Partial Invalidity

A. If any part, section, subsection, paragraph, sentence, clause, phrase, or word in this Part shall be held by any court to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Part, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity. Acts 1961, 57th Leg., p. 408, ch. 205, § 1.

Art. 1302. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal

*Acts 1961, 57th Leg., p. 458, ch. 229, § 2 provided:*

*“The repeal of a prior Act by this Act shall not impair or otherwise affect:*

*“(1) The organization or the continued existence of a domestic corporation existing at the time of such repeal or any foreign corporation qualified*

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*to do business in this State at the time of such repeal to continue so to do without again qualifying to do business in this State; provided, however, that any corporation heretofore operating by virtue of Section 49 of Article 1302 or 1303b, Vernon's Civil Statutes of Texas, or both, must meet the qualifications of the Texas Business Corporation Act.*

*"(2) Any right accrued or established, or any liability or penalty incurred, under the provisions of such Act prior to the repeal thereof.*

*"With the exception of Section 49 of Article 1302 and Article 1303b, Vernon's Civil Statutes of Texas, the repeal by this Act of any purpose clause shall not give rise to the inference that corporations may not hereafter be organized for the purpose so repealed."*

Prior to repeal, art. 1302 was amended by the following acts: Acts 1961, 57th Leg., p. 608, ch. 289, § 17, repealing subd. 59.

Arts. 1302b to 1302i. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302. Purposes of business corporations, see V. A.T.S. Bus. Corp. Act, art. 2.01.

## CHAPTER TWO—CREATION OF CORPORATIONS

Arts. 1303 to 1304. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302. Articles of incorporation, see V.A.T.S. Bus. Corp. Act, art. 3.01 et seq.

Art. 1304a. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

### Effect of repeal

Acts 1961, 57th Leg., p. 408, ch. 205, § 3, provided: *"The repeal of a prior act by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of such act, prior to the repeal hereof."*

See, now, art. 1302—3.01.

Art. 1305. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302. Articles of incorporation, see V.A.T.S. Bus. Corp. Act, art. 3.01 et seq.

Art. 1306. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2; Acts 1961, 57th Leg., p. 458, ch. 229, § 1, eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized notes under former arts. 1302, 1304a.

See, now, art. 1302—2.01.

Art. 1307. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

Effect of repeal, see italicized note under former art. 1304a.

See, now, art. 1302—2.02.

Arts. 1308 to 1316a. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Prior to repeal, art. 1314 was amended by Acts 1951, 52nd Leg., p. 284, ch. 166, § 1. Effect of repeal, see italicized note under former art. 1302.

Art. 1317. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1304a.

See, now, art. 1302—2.03.

Art. 1318. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

### CHAPTER THREE—GENERAL PROVISIONS

Arts. 1319 to 1321. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

Art. 1321a. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2; Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized notes under former arts. 1302, 1304a.

See, now, art. 1302—2.04.

Arts. 1322 to 1333. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

Art. 1334b. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

Effect of repeal, see italicized note under former art. 1304a. See, now, art. 1302—2.05.

Arts. 1335 to 1347. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Art. 1348. 1165, 665, 589 Indebtedness

Consideration for indebtedness, see also art. 1302—2.06.

Art. 1352. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Arts. 1357, 1358. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1.  
Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

Arts. 1358—1 to 1358—28. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1304a.

See now, arts. 1302-6.01 to 1302-6.26.

#### CHAPTER FOUR—LANDS

Arts. 1359 to 1365. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

Effect of repeal, see italicized note under former art. 1304a.

See, now, arts. 1302-4.01 to 1302-4.07.

#### CHAPTER FIVE—BOOKS, RECORDS, ETC.

Arts. 1366 to 1371. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

Effect of repeal, see italicized note under former art. 1304a.

See, now, arts. 1302-5.01 to 1302-5.06.

#### CHAPTER SIX—LIENS FOR FINES, ETC.

Arts. 1372 to 1378. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

Effect of repeal, see italicized note under former art. 1304a.

See, now, arts. 1302-5.07 to 1302-5.13.

#### CHAPTER SEVEN—INSOLVENT CORPORATIONS

Art. 1379. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302. Receiver, appointment to rehabilitate corporation, see V.A.T.S. Bus.Corp.Act, art. 7.05.

Arts. 1380 to 1382. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2

Effect of repeal, see italicized note under former art. 1304a. See, now, arts. 1302-5.14 to 1302-5.16.

## Art. 1383

### REVISED CIVIL STATUTES

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Art. 1383. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2; Acts 1961, 57th Leg., p. 458, ch. 229, § 1, eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized notes under former arts. 1302, 1304a.

Arts. 1384 to 1386. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1304a. See, now, arts. 1302—5.17 to 1302—5.19.

## CHAPTER EIGHT—DISSOLUTION OF CORPORATIONS

Arts. 1387 to 1395a. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

## CHAPTER NINE—RELIGIOUS, CHARITABLE, AND EDUCATIONAL

Arts. 1396 to 1398. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

Art. 1399. 1214 Lodges

Purposes of non-profit corporations, see V.A.T.S. Non-Profit Corp. Act, art. 2.01.

Arts. 1408, 1409. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

Arts. 1410, 1411. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1304a.

See, now, art. 1302—3.02.

Arts. 1412 to 1415. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under former art. 1302.

## CHAPTER TEN—PUBLIC UTILITIES

## 3. WATER

## Art. 1434a. Water supply or sewer service corporations

## Application for charter to Secretary of State; board of directors

Sec. 3. (a) The persons applying for a charter for such corporation shall make application to the Secretary of State in the manner now provided by law for private corporations and in the name designated for such corporation shall use the words "Water Supply Corporation." The application for charter shall name all the members of the board of directors. The number of directors may be increased from time to time by amendment to the by-laws but there shall never be more than twenty-one (21) members of said board.

(b) When the board of directors shall consist of nine (9) or more members, in lieu of electing the whole number of directors annually, the by-laws may provide that the directors be divided into either two (2) or three (3) classes, each class to be as nearly equal in number as possible, the terms of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two (2) classes, or until the third succeeding annual meeting, if there be three (3) classes. No classification of directors shall be effective prior to the first annual meeting of shareholders. As amended Acts 1959, 56th Leg., p. 939, ch. 435, § 1; Acts 1961, 57th Leg., 1st C.S., p. 192, ch. 54, § 1.

Emergency. Effective Aug. 26, 1961.

## Annual election of officers, salaries

Sec. 5. Upon the issuance of a charter and annually thereafter on the first Tuesday in January the board of directors shall elect a president, a vice president, and a secretary-treasurer and may require of such officers bonds for the faithful performance of their duties. The salaries of all the officers of said corporation except that of the secretary-treasurer and of the manager whose salary is hereinafter referred to, shall not exceed Five Thousand Dollars (\$5,000) per year. The salary of the secretary-treasurer shall be fixed by the board of directors at a sum commensurate with the duties required of him. As amended Acts 1961, 57th Leg., 1st C.S., p. 192, ch. 54, § 1.

Emergency. Effective Aug. 26, 1961.

## Manager elected by board of directors

Sec. 6. The business of the corporation may be handled under the direction of the board of directors, by a manager to be elected by a majority vote of the board and he shall be employed at a salary to be fixed by the board of directors. As amended Acts 1961, 57th Leg., 1st C.S., p. 192, ch. 54, § 1.

Emergency. Effective Aug. 26, 1961.

**Depository for funds**

Sec. 8. The Board of Directors shall select as depository for the funds of said corporation, a National Bank or State Bank within the State of Texas and shall require of said depository such bond as the Board deems necessary for the protection of said corporation; and such funds as the Board of Directors may from time to time allocate to a sinking fund for replacement, amortization of debts and the payment of interest which shall not be required to be expended within the year in which the same is deposited, shall be invested in bonds or other evidence of indebtedness of the United States of America or deposited at interest in such National Bank or State Bank in a Savings account, or in shares or share accounts of Building and Loan Associations and Savings and Loan Associations doing business in this State when such shares are insured under and by virtue of the Federal Savings and Loan Insurance Corporation. As amended Acts 1961, 57th Leg., p. 158, ch. 81, § 1.

Emergency. Effective April 24, 1961.

*Amendment by Acts 1961, 57th Leg., 1st C.S., p. 192, ch. 54, § 1, see § 8 post.*

Sec. 8. The board of directors shall select as depository for the funds of said corporation, a bank within the State of Texas which is insured with the Federal Deposit Insurance Corporation and shall require of said depository such bond as the board deems necessary for the protection of said corporation; and such funds as the board of directors may from time to time allocate to a sinking fund for replacement, amortization of debts and the payment of interest which shall not be required to be expended within the year in which the same is deposited shall be invested in bonds or other evidence of indebtedness of the United States of America or deposited at interest in such bank within the State of Texas which is insured with the Federal Deposit Insurance Corporation in a savings account. As amended Acts 1961, 57th Leg., 1st C.S., p. 192, ch. 54, § 1.

Emergency. Effective Aug. 26, 1961.

*Amendment by Acts 1961, 57th Leg., p. 158, ch. 81, § 1, see § 8, ante.*

**Exemption from Texas Securities Act**

Sec. 9. The provisions of the Texas Securities Act shall not apply to any note, bond, or other evidence of indebtedness issued by any corporation doing business in this State pursuant to this Act, to the United States of America or any agency or instrumentality thereof, or to any mortgage, deed of trust or other instrument executed to secure the same. The provisions of said Securities Act shall not apply to the issuance of membership certificates or stock certificates of any corporation organized under the provisions of this Act. Added Acts 1961, 57th Leg., 1st C.S., p. 192, ch. 54, § 2.

Emergency. Effective Aug. 26, 1961.

Franchise tax, corporations exempt, see V.A.T.S. Tax-Gen. art. 12.03.

**CHAPTER TWELVE—BRIDGES, FERRIES AND CAUSEWAYS****Art. 1470. Land under water**

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

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### CHAPTERS THIRTEEN AND FOURTEEN

Arts. 1478-1482. Repealed. Acts 1961, 57th Leg., p. 841, ch. 377, § 14.  
Eff. 90 days after May 29, 1961, date of adjournment

See, now, art. 5415e.

Effect of repeal on existing corporations,  
see art. 5415e, § 14.

Arts. 1483-1494. Repealed. Acts 1961, 57th Leg., p. 841, ch. 377, § 14.  
Eff. 90 days after May 29, 1961, date of adjournment

See, now, art. 5415e.

Effect of repeal on existing corporations,  
see art. 5415e, § 14.

### CHAPTER NINETEEN—FOREIGN CORPORATIONS

Arts. 1529, 1530. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, § 1.  
Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under  
former art. 1302.

Art. 1531. Repealed. Acts 1961, 57th Leg., p. 408, ch. 205, § 2. Eff.  
90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under  
former art. 1304a.

See, now, art. 1302-2.08.

Arts. 1532 to 1538. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, §  
1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under  
former art. 1302.

### CHAPTER NINETEEN "A"—NON-PAR CORPORATIONS

Arts. 1538a to 1538n. Repealed. Acts 1961, 57th Leg., p. 458, ch. 229, §  
1. Eff. 90 days after May 29, 1961, date of adjournment

Effect of repeal, see italicized note under  
former art. 1302.

## TITLE 33—COUNTIES AND COUNTY SEATS

## CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art.

1577b. Validation of sales and conveyances; purchasers in adverse possession [New].

Art. 1577b. Validation of sales and conveyances; purchasers in adverse possession

In all cases where the County Court or Commissioners Court in any county of this State acting as such court has sold or attempted to sell land or interest therein belonging to said County to any person, firm or corporation and where the County Court or Commissioners Court has made, executed, acknowledged, and delivered to any such person, firm or corporation an instrument of conveyance purporting to convey to a purchaser title to such property, and where such purchaser or his successors have held peaceable and adverse possession, using, enjoying and cultivating such property for a period of ten (10) years or more, then such sales, attempted sales and conveyances are hereby validated. Acts 1961, 57th Leg., p. 1121, ch. 509, § 1.

Emergency. Effective June 17, 1961.

Title of Act:

An Act validating certain sales and conveyances or attempted sales and convey-

ances by counties of county-owned lands; and declaring an emergency. Acts 1961, 57th Leg., p. 1121, ch. 509.

## CHAPTER FIVE—COUNTY SEATS

Art.

1605a—2. Office buildings outside county seat in certain counties of at least 22,000 inhabitants [New].

Art.

1605a—3. Counties and cities; joint construction, ownership and maintenance of buildings; contracts [New].

Art. 1605a—2. Office buildings outside county seat in certain counties of at least 22,000 inhabitants

Section 1. In all counties having a population of at least twenty-two thousand (22,000) persons, according to the last preceding Federal Census, and an assessed value for county tax purposes of not more than Twenty-one Million, Twenty-one Thousand and Eight Hundred Dollars (\$21,021,800) nor less than Twenty Million, Six Hundred Fifty Thousand and Two Hundred Dollars (\$20,650,200), the Commissioners Court of each said county shall have the power and authority to construct, operate and maintain an office building and/or jail at a city other than the county seat in the same manner as such Commissioners Court may now provide for and maintain a court house and jail at the county seat. The Commissioners Court may authorize the maintenance of a branch office of the county tax assessor and collector, a jail, and a justice court in such buildings. However, all county officers shall keep all original records at the county seat. The Commissioners Court shall have the care and custody of such buildings and may place such limitations as it may see fit on the authorization and maintenance of such facilities. When authorized to maintain such branch office, the assessor and collector of taxes may appoint one or more deputies for said offices. The expenses incidental to

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maintaining said facilities shall be considered as a part of the necessary expenses of the county. Said deputy assessor-collectors shall have the right to collect taxes from all persons who desire to pay their taxes to them, and to issue a valid receipt therefor. Such deputy shall enter into such bond, payable to the county judge of the county, as the tax assessor and collector and Commissioners Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such deputy collector and the period of time he shall hold such office shall be fixed by the Commissioners Court and such deputy collector shall be subject to all of the terms and provisions of the law relating to deputy tax collectors. The tax collector shall remain liable on his bonds for all taxes collected by such deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the tax collector or such deputy. Nothing contained herein shall be construed as making it mandatory upon the assessor and collector of taxes and the Commissioners Courts of such counties to maintain such branch offices and appoint such deputies, but the establishment of such branch offices and the appointment shall wholly be within the discretion of the Commissioners Courts of such counties. When such branch office or offices are established and a deputy or deputies are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the assessor and collector of taxes, and shall be paid as now provided by law for the payment of the expenses of the assessor and collector of taxes.

Sec. 2. Said office building and/or jail may be provided for, maintained and repaired by the issuance of bonds as is provided by Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, as amended, or it may be provided for, maintained, and repaired through the issuance of evidences of indebtedness in the same manner as courthouses and jails at the county seats, and the taxes may be levied therefor in the same manner and subject to the same limitations as for courthouses and jails at the county seat. Acts 1961, 57th Leg., p. 103, ch. 57.

Effective 90 days after May 29, 1961, date of adjournment.

Bonds for courthouses, jails, etc. see art. 718 et seq.

Commissioners, courts, powers and duties, see art. 2351 et seq.

County building authority act, see art. 2372o.

County office buildings, construction in certain counties of 90,000 to 225,000 inhabitants, see art. 2372j.

**Title of Act:**

An Act permitting certain counties to construct, operate and maintain an office building and certain offices outside the county seat; and declaring an emergency. Acts 1961, 57th Leg., p. 103, ch. 57.

**Art. 1605a—3. Counties and cities; joint construction, ownership and maintenance of buildings; contracts**

Section 1. This Act shall be applicable in any county in which there is an incorporated city having a population of not less than two thousand (2,000) which is located more than 10 (ten) miles from the county seat, and shall apply to such city.

Sec. 2. Any county and city to which this Act is applicable are authorized jointly to own, construct, equip, enlarge and maintain a building in such city to be used for branch offices and library of the county, the justice of the peace, and for a city hall. The cost of construction thereof shall be paid from current income and funds on hand as provided in the budgets or tax levies of the county and the city.

Sec. 3. The county and the city shall specify by contract the amount or the proportionate part of money to be contributed by each for such con-

struction and equipment; the account or accounts in which such money is to be deposited; the party which shall award construction and other contracts or that such contracts are to be awarded by action of both parties; and the manner in which disbursements from such account shall be authorized. Such contract may provide for the appointment of a committee or a board to operate and maintain the building, or that one of the parties shall perform that service; and may specify the portion of the operation and maintenance expenses to be contributed annually by the county and the city.

Sec. 4. Annual expenses for the operation and maintenance of the building shall be budgeted by the county and by the city.

Sec. 5. Title to the land upon which the building is to be constructed shall be placed jointly in the county and the city. Acts 1961, 57th Leg., p. 149, ch. 76.

Emergency. Effective April 19, 1961.

Buildings, other than court house, for public business, see art. 2370.

Power of cities to build municipal buildings, see art. 1269j—4.

County building authority act, see art. 2372o.

State building commission, see art. 678m.



## TITLE 34—COUNTY FINANCES

## I. GENERAL PROVISIONS

Art. 1641e.	Biennial independent audit of books, records and accounts in counties of 75,000 to 85,000 [New].	Art. 1644c-1.	Counties of 7,500 to 10,000 population; authority to borrow money [New].
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## I. GENERAL PROVISIONS

## Art. 1638. 1453-4 Finance committee

Biennial independent audit of books, records and accounts in counties of 75,000 to 85,000, see art. 1641e.

## Art. 1641. Audit by accountant

Biennial independent audit of books, records and accounts in counties of 75,000 to 85,000, see art. 1641e.

## Art. 1641c. Special audit of county records on petition of voters; employment of auditor

Biennial independent audit of books, records and accounts in counties of 75,000 to 85,000, see art. 1641e.

## Art. 1641d. Annual independent audit of books, records and accounts in counties of 350,000 or more

Similar provisions relating to counties of 75,000 to 85,000, see art. 1641e.

## Art. 1641e. Biennial independent audit of books, records and accounts in counties of 75,000 to 85,000

Section 1. In every county in the State of Texas where an independent audit has not been made within the preceding ten (10) years, and having a population of not less than seventy-five thousand (75,000) inhabitants nor more than eighty-five thousand (85,000) inhabitants according to the last preceding Federal Census, a biennial independent audit shall be made of all books, records, and accounts of the district, county, and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms, and other institutions of the county, and all matters pertaining to the fiscal affairs of the county.

Sec. 2. In all counties in which this bill applies, the first independent audit shall be made in 1962 and completed prior to December 31, 1962, and thereafter a biennial independent audit shall be made of all office books and records enumerated in Section 1 of this Act. Thereafter, said audit shall be made on the even-numbered years in such counties and the audit report shall be completed before December 31st of such year.

Sec. 3. The Commissioners Court in all counties affected by this Act shall employ a disinterested, competent, experienced public accountant or certified public accountant to audit all of the above records and accounts enumerated in Section 1 of this Act.

Sec. 4. At the first regular meeting of the Commissioners Court in January, 1962, and at the regular meeting of the Commissioners Court in January every two (2) years thereafter, the Court shall enter into a contract with a disinterested, competent, experienced public accountant or certified public accountant to audit all the books and records of the county that are enumerated in Section 1 of this Act. It shall not be necessary that the Commissioners Court advertise for competitive bids before selecting the public accountant or certified public accountant to prepare the audit or audits required by the provisions of this Act, and the consideration specified in each contract shall be paid out of the general fund of the respective county.

Sec. 5. Nothing in this Act shall be construed so as to prevent any county coming under the provisions of this Act from having an annual independent audit made of the records covered by this Act, provided that when such annual independent audit reports covering such books, accounts and records are completed prior to December 31st of each year such annual independent audits may be considered as compliance with the audits provided by this Act.

Sec. 6. The audits provided for in this Act shall be in addition to any special audits that may be prepared pursuant to the provisions of Articles 1638, 1641 and 1641c, or any regular or special audit report that may be prepared by the regular county auditor. Acts 1961, 57th Leg., p. 364, ch. 183.

Emergency. Effective May 18, 1961.

County Treasurer, submission of vouchers for audit, see art. 1711.

Audits and reports respecting certain monies by county auditors in counties of 320,000 to 350,000, see art. 1645g.

Similar provisions relating to counties of 350,000 or more, see art. 1641d.

**Art. 1644c—1. Counties of 7,500 to 10,000 population; authority to borrow money**

Section 1. All counties of this state having a population of more than seven thousand, five hundred (7,500) but less than ten thousand (10,000) people, according to the last preceding United States Census, and which had taxable property in said county in excess of Forty-five Million Dollars (\$45,000,000) according to its last ad valorem tax rolls, are hereby expressly authorized and empowered to borrow money from any source, public or private, in any amount not to exceed the aggregate principal amount of One Hundred and Sixty-five Thousand Dollars (\$165,000). By the term "aggregate principal amount" is meant the total of the sums so borrowed by any county under the provisions of this Act, and not the balance owing and due by any county at any one time.

Sec. 2. Such counties are further hereby expressly authorized and empowered to issue time warrants and/or other obligations of such counties in evidence of money borrowed, which warrants or obligations may draw interest at any rate not to exceed four percent (4%) per annum, and may be payable within such time, not to exceed ten (10) years, and on such terms as may be agreed upon between the lending agency and the county to which the loan is made; and such counties are further expressly authorized to levy taxes and to pledge any taxes and/or revenues provided for such counties, under the Constitution and Laws of this state, in payment of such loans.

Sec. 3. The Commissioners Court of any such county qualifying under Section 1 is empowered with authority to approve the issuance of such warrants or obligations which may be in any amount or amounts,

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providing that the total of such warrants or obligations does not exceed One Hundred and Sixty-five Thousand Dollars (\$165,000). No such warrants or obligations shall be issued, sold or delivered after five years from the effective date of this Act.

Sec. 4. Such warrants or obligations, upon approval by the Commissioners Court, shall be signed by the county judge and county clerk of such county.

Sec. 5. Such warrants or obligations, when issued and signed in accordance with the provisions of this Act, shall constitute valid obligations of such counties.

Sec. 6. This Act shall be cumulative of all other Laws, General and Special, relating to the subject matter hereof. Acts 1961, 57th Leg., p. 445, ch. 218.

Emergency. Effective May 25, 1961.

Borrowing money from federal agencies, Time warrants, see art. 2368a, § 3.  
see arts. 717b, 717c.

## 2. COUNTY AUDITOR

**Art. 1645g. Audits and reports respecting certain monies by county auditors in counties of 320,000 to 350,000 population**

Biennial independent audit of books, records and accounts in counties of 75,000 to 85,000, see art. 1641e.

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TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art. 1934a—15. Employment and salary of secretary or stenographer in all counties

Section 1. Whenever any County Judge of this State shall require the services of a secretary or stenographer, he shall apply to the Commissioners Court of his County for authority to employ such secretary or stenographer. If the Commissioners Court determines that the services of a secretary or stenographer is needed for the County Judge, it shall enter an order authorizing the County Judge to employ a secretary or stenographer and the Commissioners Court shall prescribe the salary to be paid such secretary or stenographer. The compensation which may be allowed the secretary or stenographer for his or her services shall be any reasonable sum that the Commissioners Court may determine is proper and adequate provided the compensation shall not be less than the following prescribed minimums:

(a) In each County having a population of twenty thousand (20,000) inhabitants or less, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than Five Hundred Dollars (\$500) per annum, nor more than Two Thousand, Four Hundred Dollars (\$2,400) per annum.

(b) In each county having a population of at least twenty-eight thousand (28,000) inhabitants and not more than thirty thousand (30,000) inhabitants according to the last preceding Federal Census, the secretary or stenographer of the county judge may receive a salary of not less than One Thousand Dollars (\$1,000) per annum, nor more than Four Thousand and Eight Hundred Dollars (\$4,800) per annum. As amended Acts 1961, 57th Leg., p. 1128, ch. 512, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

COUNTY CRIMINAL COURT NO. 1 OF TARRANT COUNTY [NEW]

BEXAR COUNTY AT LAW NO. 3 [NEW].

Art. 1970—62b. County Criminal Court No. 1

Art. 1970—301e. Salaries of judges [New].

HARRIS COUNTY CIVIL COURT AT LAW NO. 2 [NEW]

1970—110d. County Civil Court at Law No. 2 of Harris County.

Art. 1969a—2. Judges of county courts at law authorized to act for county judge

Section 1. The Judge of any County Court at Law in any county having a population of less than seven hundred thousand (700,000) inhabitants, according to the last preceding or any future Federal Census, may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter and also may perform for the County Judge any and all other ministerial acts required by the laws

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of this State of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; and any and all such acts thus performed by the Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceedings or matters the same as if performed by the County Judge. Provided that the powers thus given the Judges of the County Courts at Law of this State shall extend to and include all powers of the County Judge except his powers and duties in connection with the transaction of the business of the County, as presiding officer of the Commissioners Court and as the budget officer for the Commissioners Court. As amended Acts 1961, 57th Leg., p. 494, ch. 236, § 1.

Emergency. Effective May 27, 1961.

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR  
COURTS, AND AFFECTING PARTICULAR COUNTY  
COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY AT LAW NO. 2

Art. 1970—15. County Court of Dallas County, at Law, No. 2, created

County criminal court of appeals of Dallas County, see Vernon's Ann.C.C.P. art. 52—159c.

COUNTY COURT AT LAW OF TARRANT COUNTY

Art. 1970—43. Fees; salary of judge of county court of Tarrant county for civil cases

Additional compensation for Tarrant county judge as member of juvenile board, see art. 3912e—5d.

Art. 1970—45. Salary of county judge of Tarrant County

Additional compensation for Tarrant county judge as member of juvenile board, see art. 3912e—5d.

TARRANT COUNTY AT LAW NO. 1

Art. 1970—55. Fees; salary

Additional compensation for Tarrant county judge as member of juvenile board, see art. 3912e—5d.

Art. 1970—61. Fees and salaries of judge

Additional compensation for Tarrant county judge as member of juvenile board, see art. 3912e—5d.

COUNTY CRIMINAL COURT NO. 1 of TARRANT COUNTY

Art. 1970—62b. County Criminal Court No. 1

Section 1. There shall be created a court to be held in Tarrant County, Texas, to be known and designated as "The County Criminal Court No. 1 of Tarrant County, Texas."

Sec. 2. The County Criminal Court No. 1 of Tarrant County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Tarrant County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, Texas, and all ex officio duties of the County Judge shall be exercised by the said Judge of the said County Court, except in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 1 of Tarrant County, Texas; and except such as have heretofore been conferred upon the Judges of the County Courts at Law, and the County Criminal Court of Tarrant County.

Sec. 4. The County Criminal Court No. 1 of Tarrant County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the state.

Sec. 5. The terms of the County Criminal Court No. 1 of Tarrant County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court No. 1, shall be held not less than four (4) times each year and the Commissioners Court of Tarrant County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as possible after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County in accordance with the law, a Judge of the County Criminal Court No. 1, hereby created, who shall be well-informed in the laws of the state and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a Judge of a court in said state for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to County Judges.

Sec. 8. A special Judge of the County Criminal Court No. 1 of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to County Courts and the Judges thereof.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 9. The county clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 1 of Tarrant County, Texas, the seal of said court shall be the same as provided for County Courts, except that the seal shall contain the words "The County Criminal Court No. 1 of Tarrant County, Texas." The sheriff of Tarrant County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall collect the same fee provided by law for County Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other County Judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well-skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this state, and also be governed by any other laws covering the stenographers of the District Courts of this state.

Sec. 13. After this Act shall become effective, the Judge of the County Criminal Court of Tarrant County and the Judge of the County Criminal Court No. 1 of Tarrant County shall together with the clerk of said courts, make a just and fair division of the cases pending on the docket of the County Criminal Court of Tarrant County, and after such division is made the clerk of the County Criminal Court of Tarrant County shall transfer to the docket of the County Criminal Court No. 1 of Tarrant County all cases allotted to said County Criminal Court No. 1 of Tarrant County in the division so made by said Judges and the County Clerk shall retain the remaining cases on the docket of the County Criminal Court of Tarrant County. For the balance of the month in which the County Criminal Court No. 1 of Tarrant County is created and becomes operative, all cases shall be filed in said court, and during the next succeeding month all cases shall be filed in the County Criminal Court of Tarrant County, and thereafter the filings shall alternate each month as between said courts.

Provided that the Judge of each court shall, by agreement with the other Judge, have authority to transfer any case pending for trial from the docket of such court to the docket of such other court, and during the absence, illness, or inability of either Judge to preside in his own court the Judge of the other court shall be and is hereby authorized

to act for such Judge absent for any of the above reasons in the trial or other disposition of cases on the docket of such other court. Acts 1961, 57th Leg., p. 86, ch. 50, as amended Acts 1961, 57th Leg., p. 1017, ch. 444, § 1.

Emergency. Effective March 29, 1961 and June 17, 1961.

As originally enacted, section 13 of this article provided: "Sec. 13. After this Act takes effect the clerk of the County Criminal Court of Tarrant County shall transfer to the docket of the County Criminal Court No. 1 of Tarrant County, all even-numbered docket cases, retaining odd-numbered cases in the County Criminal Court of Tarrant County. Thereafter, the clerk shall number all causes filed in consecutive order and assign all odd-numbered causes to the County Criminal Court of Tarrant County and all even-numbered causes to

the County Criminal Court No. 1 of Tarrant County. The Judge of the court to which transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court."

**Title of Act:**

An Act to create an additional County Criminal Court for the County of Tarrant to be known as "The County Criminal Court No. 1 of Tarrant County" and to provide for the jurisdiction, and organization of, and procedure in said court; and declaring an emergency. Acts 1961, 57th Leg., p. 86, ch. 50.

**HARRIS COUNTY CIVIL COURT AT LAW NO. 1**

**Art. 1970—77. County Civil Court at Law No. 1**

The County Court at Law of Harris County, Texas, shall hereafter be known as "County Civil Court at Law No. 1," and the seal of said Court shall hereafter be the same as that provided by law for county courts, except that the seal shall contain the words: "County Civil Court at Law No. 1, Harris County, Texas."

That wherever the name "County Court for Civil Cases" or "County Court at Law of Harris County, Texas," appears in any portion of this Act creating said Court it shall hereafter be understood to mean "County Civil Court at Law No. 1." As amended Acts 1961, 57th Leg., p. 1073, ch. 481, § 2.

Emergency. Effective June 17, 1961.

Section 2 of the amendatory Act of 1961 amended art. 1970—77; section 3 amended 1970—95; section 4 amended 1970—110b, § 1; section 5 amended art. 1970—110c, § 1; section 6 repealed art. 1970—110c, § 2A; section 7 amended art. 1970—110b, § 2 and section 8 amended art. 1970—96.

Section 9 read as follows "The County Clerk of Harris County, Texas, upon the

effective date of this Act is directed to transfer all of the civil cases now pending on the dockets of the County Criminal Courts at Law Numbers 1, 2, and 3 to the Dockets of County Civil Courts at Law Numbers 1 and 2, such cases to be filed alternatively in County Civil Courts at Law Numbers 1 and 2."

Harris county civil court at law, No. 2, see art. 1970—110d.

**HARRIS COUNTY CRIMINAL COURT AT LAW NO. 1**

**Art. 1970—95. County Criminal Court at Law No. 1**

There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 1."

That hereafter wherever the name of "County Court at Law No. 2" appears in this Act creating said Court it shall be read and understood as referring to County Criminal Court at Law No. 1 of Harris County, Texas. As amended Acts 1961, 57th Leg., p. 1073, ch. 481, § 3.

Emergency. Effective June 17, 1961.

Transfer of cases to dockets of county civil courts, see art. 1970—77 note.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 1970—96. Jurisdiction over criminal matters; appellate jurisdiction**

Said County Criminal Court at Law No. 1 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from Justice Courts and Corporation Courts within Harris County, and the Judges of said Court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the Judges of County Courts having criminal jurisdiction; provided that said Court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof. As amended Acts 1961, 57th Leg., p. 1073, ch. 481, § 8.

Emergency. Effective June 17, 1961.

Transfer of cases to dockets of county civil courts, see art. 1970—77 note.

**HARRIS COUNTY CRIMINAL COURT AT LAW NO. 2.**

**Art. 1970—110b. County Criminal Court at Law No. 2**

Section 1. There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 2."

Hereafter wherever the name of County Court at Law No. 3 appears in this Act creating said Court it shall be read and understood as meaning and referring to "County Criminal Court No. 2 of Harris County, Texas." As amended Acts 1961, 57th Leg., p. 1073, ch. 481, § 4.

Emergency. Effective June 17, 1961.

Sec. 2. The County Criminal Court at Law No. 2 of Harris County, Texas, shall have and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, Texas, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Civil Court at Law No. 1 or in the judge thereof. As amended Acts 1961, 57th Leg., p. 1073, ch. 481, § 7.

Emergency. Effective June 17, 1961.

Transfer of cases to dockets of county civil courts, see art. 1970—77 note.

**HARRIS COUNTY CRIMINAL COURT AT LAW NO. 3**

**Art. 1970—110c. County Criminal Court at Law No. 3**

Section 1. There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 3."

Wherever the name County Court at Law No. 4 appears in this Act creating said Court it shall from and after the passage of this Act be read and understood as designating and referring to the County Criminal Court at Law No. 3. As amended Acts 1961, 57th Leg., p. 1073, ch. 481, § 5.

Emergency. Effective June 17, 1961.

Sec. 2A. Repealed. Acts 1961, 57th Leg., p. 1073, ch. 481, § 6.

Emergency. Effective June 17, 1961.

Prior to repeal section 2A read as follows:

"Sec. 2A. The County Court at Law No. 4 of Harris County, Texas, and the judge thereof shall have, and is hereby granted the same jurisdiction and powers in civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, and the judges thereof; the clerk of the County Court at Law of Harris County, Texas, shall also be the clerk of said County Court at Law No. 4 of Harris County, Texas, in civil matters; and shall file each ninth civil action or proceeding filed in said courts in the County Court at Law No. 4, beginning with the first civil action or proceeding filed so that the first civil action or proceeding filed after the effective date of this Act and every ninth civil action or proceeding filed thereafter shall be docketed in the County Court at Law No. 4 of Harris County, Texas, and the second civil action or proceeding filed and every ninth civil action or proceeding thereafter filed shall be docketed in the County Court at Law No. 3 of Harris County, Texas, and the third and every ninth civil action or proceeding filed thereafter shall be filed in the County Court at Law No. 2 of Harris County, Texas, and the fourth, fifth, sixth, seventh, eighth and ninth civil action or proceeding filed and every fourth, fifth, sixth, seventh, eighth and ninth civil action or proceeding thereafter filed shall be docketed in the County Court at Law of Harris County, Texas, and so on in rotation.

Said clerk shall keep separate dockets for each of said courts; and shall tax the official court reporter's fee as costs in civil actions in each of said courts in like manner as said fee is taxed in civil cases

in the district courts; and each of the judges of said County Courts at Law may with the consent of the judge of the court to which transfer is to be made, transfer civil actions or proceedings from his respective court to any one of the other courts by the entry of an order to that effect upon the docket, and the said County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, and the judges thereof, shall transfer to the said County Court at Law No. 4 of Harris County, Texas, any civil actions or proceedings pending on the dockets of said courts on the effective date of this Act, as may be necessary in order that the now over crowded dockets of said courts may be relieved, and said County Court at Law No. 4 of Harris County, Texas, and the judge thereof, shall have jurisdiction to hear and determine said civil matters, and render and enter the necessary and proper orders, decrees, and judgments therein. The judges of the County Court at Law No. 2 of Harris County, Texas, the County Court at Law No. 3 of Harris County, Texas, and the County Court at Law No. 4 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred."

Section 14 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 15 provided that if any section was declared unconstitutional it should not affect the remainder.

Transfer of cases to dockets of county civil courts, see art. 1970—77 note.

## HARRIS COUNTY CIVIL COURT AT LAW NO. 2

Art. 1970—110d. County Civil Court at Law No. 2 of Harris County

(a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 2 of Harris County, Texas," and the seal of said Court shall be the same as provided by law for county courts except the seal shall contain the words "County Civil Court at Law No. 2."

(b) The County Civil Court at Law No. 2 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over civil matters, proceedings and cases, that is now or may be vested in the County Civil Court at Law No. 1, and shall have jurisdiction in civil actions, and the judge thereof to exercise equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil

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Court at Law No. 1, under the Constitution and laws of Texas, and this Court shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County, and the Judges of said Court shall have the same powers, rights and privileges as to civil matters as are or may be vested in the judges of county courts having civil jurisdiction, provided that the said Court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof.

(c) The County Civil Court at Law No. 2 of Harris County shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the Constitution and general laws of the State of Texas, the County Court of said County would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases, and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Court at Law No. 1.

That County Civil Courts at Law (No. 1 and No. 2) shall have special jurisdiction in matters of eminent domain and the Judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of said Civil Courts or with the respective Judges thereof.

(d) The terms of the County Civil Court at Law No. 2 of Harris County, and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County Civil Court at Law No. 2 for civil cases shall be held as now established for the terms of the County Civil Court at Law No. 1 of Harris County until the same be changed in accordance with the law.

Said Court shall hold six (6) terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

(e) The Judge of the said Harris County Civil Court at Law No. 2, shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; and when this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge to the County Civil Court at Law No. 2 of Harris County who shall have the qualifications herein prescribed, and shall serve until the next General Election, and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of Judge of said Harris County Civil Court at Law No. 2, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

(f) The Judge of the Harris County Civil Court at Law No. 2 shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special Judge of the Harris County Civil Court at Law No. 2 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the Clerk of the Harris County Civil Court at Law No. 2. The Sheriff of Harris County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Said County Clerk shall keep separate dockets for each of said Civil Courts, No. 1 and No. 2, and shall tax the official court reporter's fee as costs in civil actions filed in each of said Courts in like manner as said fee is taxed in civil cases in the district courts.

The County Clerk shall after the effective date of this Act, file all civil cases and civil proceedings exclusively in the County Civil Courts at Law No. 1 and No. 2 and shall file said civil cases alternately in each of said Courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness or absence from the county, of any of the Judges of the County Civil Courts at Law No. 1 or No. 2, of County Criminal Courts at Law Numbers 1, 2 or 3, any other Judge of said Courts may exchange benches with any other County Court at Law Judge of Harris County, Texas, and when so exchanging benches with any other of the said County Court at Law Judges of Harris County, the Judge of County Civil Court at Law No. 2 of Harris County, Texas, shall have all power and jurisdiction of the County Civil or County Criminal Courts at Law, and of the judge thereof, while so exchanging benches; and in like manner the Judges of said County Civil or Criminal Courts at Law of Harris County, Texas, shall have all the power and jurisdiction of any other of said Civil or Criminal County Courts at Law and of the Judges thereof while so exchanging benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for such disqualified or absent judge upon request or in an emergency, or for good cause shown.

That the salary of the Judge of said County Civil Court at Law No. 2 and the salaries of all County and Civil and Criminal Court Judges mentioned herein, to wit: County Civil Court at Law No. 1; County Criminal Court at Law No. 1; County Criminal Court at Law No. 2 and County Criminal Court at Law No. 3 shall be not less than Thirteen Thousand, Two Hundred Dollars (\$13,200) or more than Fifteen Thousand, Six Hundred Dollars (\$15,600), per annum, payable in twelve (12) equal monthly installments out of the General Fund of Harris County, Texas.

(j) That the Judge of the County Civil Court at Law No. 2 of Harris County, Texas, may appoint and discharge an Official Court Reporter in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the same salary as the reporters of the District Courts of Harris County, Texas, the same to be paid by the County Treasurer out of the General Fund of the County, and in addition to said salary the compensation for transcript fees as provided by law. Acts 1961, 57th Leg., p. 1073, ch. 481, § 1.

Emergency. Effective June 17, 1961.

Harris county civil court at law, No. 1,  
see art. 1970—77.

Transfer of cases to dockets of county  
civil courts, see art. 1970—77 note.

### BEXAR COUNTY AT LAW NO. 3

#### Art. 1970—301e. Salaries of judges

Section 1. From and after the effective day of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge

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of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall each receive an annual salary of not less than Twelve Thousand Dollars (\$12,000) nor more than Sixteen Thousand Dollars (\$16,000). Such annual salary to be paid to each of said judges shall be determined and fixed by the Commissioners Court of Bexar County, Texas, and, when so determined and fixed, such annual salary shall be paid to each of said judges in equal monthly installments by warrants drawn on the County Treasury of Bexar County, Texas, upon orders of the Commissioners Court of said County. Acts 1961, 57th Leg., p. 523, ch. 249.

Effective 90 days after May 29, 1961, date of adjournment.

Similar provisions for 1951 and 1953 relating to judges of County Courts at Law

Nos. 1 and 2 of Bexar County, see arts. 1970—301b, 1970—301c.

### LUBBOCK COUNTY

#### Art. 1970—340. County Court at Law of Lubbock County

Appointment and compensation of reporters in Lubbock county courts at law Nos. 1 and 2, see art. 2326j—9.

#### Art. 1970—340.1. County Court at Law No. II of Lubbock County

Appointment and compensation of reporters in Lubbock county courts at law Nos. 1 and 2, see art. 2326j—9.

### GALVESTON COUNTY JUVENILE AND COUNTY COURT NO. 2

#### Art. 1970—342. Juvenile and County Court No. 2, of Galveston County

Section 1. The Probate Court of Galveston County provided by Section 1, Chapter 187, Acts of the 53rd Legislature, Regular Session, 1953, shall hereafter be known as the "Juvenile and County Court No. 2, of Galveston County." The court shall have, in addition to its present jurisdiction, civil and criminal jurisdiction as provided by General Law for county courts and as provided in Section 3 hereof in juvenile matters.

Sec. 2. The court shall have a seal consisting of a star of five (5) points with the words "Juvenile and County Court No. 2, Galveston County, Texas" engraved thereon.

Sec. 3. The Juvenile and County Court No. 2 shall have concurrent jurisdiction in the following cases:

(a) Removal of disabilities of minority and coverture, and change of name of persons.

(b) Adoptions.

(c) Delinquent, neglected or dependent child proceedings, and all jurisdiction, power and authority placed in the district or county courts under the juvenile and child welfare laws of this state; provided that in cases concerning offenses by juveniles for which they might be adjudged delinquent the court shall have jurisdiction if a tentative charge is filed by the juvenile officer and without intervention of the district attorney.

(d) In addition, the Juvenile and County Court No. 2 of Galveston County shall have concurrent probate, civil and criminal jurisdiction of

all cases, original and appellate, over which by the laws of the State of Texas and the existing county court of Galveston County would have original and appellate jurisdiction; provided, however, that the court shall at all times give precedence first to the juvenile matters enumerated in this Section.

Sec. 4. All cases over which the Juvenile and County Court No. 2 has jurisdiction may be instituted in or transferred to the Juvenile and County Court No. 2. The county judge and the district judges of Galveston County may transfer to the Juvenile and County Court No. 2 all cases pending in their respective courts of which the court has jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases, with the consent of the judge of the Juvenile and County Court No. 2.

All cases and matters over which the Juvenile and County Court No. 2 is given jurisdiction may be transferred by the judge thereof to the county or district courts having jurisdiction under the laws of this state, with the consent of the judge of the court concerned. All cases and matters over which the Juvenile and County Court No. 2 and the county court of Galveston County have concurrent jurisdiction and over which the district courts also have jurisdiction may be transferred to one of the district courts of Galveston County with the consent of the judge thereof.

All writs or process issued by a court prior to the time any case is transferred shall be returned and filed in the court to which the case is transferred and shall be as valid and binding upon the parties to such transferred case as though such writ or process had been issued out of the court to which transferred, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Sec. 5. The judge of the present Probate Court of Galveston County shall serve as judge of the Juvenile and County Court No. 2 until the next general election and until his successor shall have been duly elected and qualified. At the next general election, there shall be elected in Galveston County by the qualified voters thereof a judge of the Juvenile and County Court No. 2, who shall be a bona fide resident of Galveston County, well-informed in the laws of the state, and a duly licensed attorney and practicing member of the bar in this state. He shall hold office for four (4) years and until his successor shall have been elected and duly qualified.

Sec. 6. The judge of the Juvenile and County Court No. 2 of Galveston County shall execute a bond and take the oath of office as required by the laws of this state relating to county judges.

Sec. 7. The judge of the Juvenile and County Court No. 2 shall be paid by the Commissioners Court of Galveston County a yearly salary of not less than the total compensation of the county judge of said county as may be fixed by the Commissioners Court. This salary shall be paid out of the general fund of the county in twelve (12) equal monthly installments.

Sec. 8. In the event of the disqualification of the judge of the Juvenile and County Court No. 2 to try a particular case because of illness, inability, failure or refusal to hold court at any time, a special judge may be elected or appointed as provided by law relating to county courts. The special judge shall receive the same compensation as the regular judge of the Juvenile and County Court No. 2. Such compensation shall

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

be deducted from the salary of the regular judge except in case of illness.

Sec. 9. The elected judicial members of the Juvenile Board of Galveston County shall fill any vacancy in the office of the judge of the Juvenile and County Court No. 2 by a majority vote of said members. The judge so designated shall hold office until the next general election and until his successor is elected and qualified.

Sec. 10. The judge of the Juvenile and County Court No. 2 shall be subject to removal from office for the same reasons and in the same manner as provided by the Constitution and laws of this state for the removal of county judges.

Sec. 11. The Commissioners Court of Galveston County shall designate suitable quarters for the Juvenile and County Court No. 2 at the Galveston County court house and at any other place within Galveston County as may be recommended by the Juvenile Board.

Sec. 12. The judge of the Juvenile and County Court No. 2 may appoint such juvenile officers and assistant juvenile officers for Galveston County as provided by law. The judge may also appoint a court reporter when he deems it necessary to record and preserve testimony, utilizing the services of the regular district and county court reporters when possible. The salaries and compensation of such officers and employees shall be established and paid as provided by law. Such salaries and compensation shall be paid out of the general fund of Galveston County.

Sec. 13. The county clerk of Galveston County shall serve as clerk of the Juvenile and County Court No. 2. He shall keep a fair record of all acts done and proceedings had in the court and shall perform generally all such duties as are required of county clerks insofar as they may be applicable to the Juvenile and County Court No. 2.

Sec. 14. The first term of the Juvenile and County Court No. 2 of Galveston County shall begin on the effective date of this Act and remain in session until the first day of the following September. Thereafter, its term shall begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Sec. 15. The judge of the Juvenile and County Court No. 2 is empowered to contract, on behalf of any juvenile within the jurisdiction of the court, for any necessary psychiatric services (testing, evaluation and treatment) with any county or state facility, subject to the approval of the Juvenile Board of Galveston County. Charges, if any, for said services shall be paid from the general fund of Galveston County.

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and other matters pertaining to the conduct of trials and hearings in the Juvenile and County Court No. 2 shall be governed by such laws and rules pertaining to district and county courts as may be applicable to the case before the court.

Sec. 17. In cases under its jurisdiction, the Juvenile and County Court No. 2 and the judge thereof may issue injunctions, temporary injunctions, and restraining orders and all other writs which may be issued by county and district courts. The court may also punish for contempt under the controlling Statutes and rules applicable to the case before the court.

Sec. 18. All sheriffs and constables of Texas shall render the same service and perform the same duties with reference to writs and process for the Juvenile and County Court No. 2 of Galveston County as is required of them with reference to process and writs for district courts.

Sec. 19. The district attorney of Galveston County or his duly and legally qualified assistant, or assistants, shall prosecute and defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the probation officer, child welfare office, county health officer, or any other welfare agency is interested and shall represent the state in all such proceedings of the Juvenile and County Court No. 2.

Sec. 20. Appeals from judgments and orders of the Juvenile and County Court No. 2 in cases over which the court has concurrent jurisdiction with the county court shall be as provided by the Constitution and laws of this state for appeals from county courts. Appeals in all other cases shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from district and county courts.

Sec. 21. All officers, agents and employees of the Child Welfare Department, County Welfare Office, and County Health Office shall furnish such services in the line of their respective duties as are required by the Juvenile and County Court No. 2." Acts 1953, 53rd Leg., p. 521, ch. 187, as amended Acts 1961, 57th Leg., p. 621, ch. 291, § 1.

Emergency. Effective June 14, 1961. Galveston county juvenile board, see art. 5139LL.

## TARRANT COUNTY

### Art. 1970—345. Tarrant County Probate Court

Sec. 14. The Judge of the Probate Court of Tarrant County shall collect the same fees as are now or hereafter may be established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the effective date of this Act, the Judge of said Court shall receive, upon qualifying, an annual salary to be fixed by order of the Commissioners Court of Tarrant County, of not less than Twelve Thousand Dollars (\$12,000), payable out of the County Treasury by the Commissioners Court. As amended Acts 1961, 57th Leg., p. 1083, ch. 485, § 1.

Emergency. Effective June 17, 1961.

Sec. 15. The Commissioners Court of Tarrant County shall provide the following employees for the Judge of the County Probate Court of Tarrant County: (a) a secretary to be paid not less than Four Thousand, One Hundred and Forty Dollars (\$4,140) per annum, and (b) a chief clerk to be paid not less than Six Thousand Dollars (\$6,000) per annum, at salaries to be fixed by the Commissioners Court but not less than the figures indicated, which salaries shall be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose, provided, however, that the Judge of the County Probate Court of Tarrant County is hereby authorized to employ, supervise, and terminate each and every one of said employees. The Commissioners Court of Tarrant County may also provide such other and additional clerical assistance as may be required to properly carry on the business of said Court at salaries to be fixed by the Commissioners Court. As amended Acts 1961, 57th Leg., p. 1083, ch. 485, § 1.

Emergency. Effective June 17, 1961.



**TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY****CHAPTER ONE—INSTITUTION, PARTIES AND VENUE****Art. 1994. [2167-71] Suit and representation by next friend.**

Minors, lunatics, idiots or non compos mentis persons who have no legal guardian may sue and be represented by "next friend" under the following rules: 1. In such cases when a judgment is recovered for money or other personal property the value of which does not exceed One Thousand, Five Hundred Dollars (\$1,500), the court may by order entered of record, authorize such next friend or other person to take charge of such money or other property for the use and benefit of the plaintiff when he has executed a proper bond in a sum at least double the value of the property, payable to the county judge, conditioned that he will pay said money with lawful interest thereon or deliver said property and its increase to the person entitled to receive the same when ordered by the court to do so, and that he will use such money or property for the benefit of the owner under the direction of the court.

2. The judge of the court in which the judgment is rendered upon an application and hearing, in termtime or vacation, may provide by decree for an investment of the funds accruing under such judgment. Such decree, if made in vacation, shall be recorded in the minutes of the succeeding term of the court.

3. The person who takes such money or property shall receive such compensation as the court may allow and shall make such disposition thereof as the court may order; and he shall return such money or property into court upon the order of the court.

4. If any person has an interest in such recovery, the court may hear evidence as to such interest, and order such claim, or such part as is deemed just, to be paid to whoever is entitled to receive the same. As amended Acts 1961, 57th Leg., p. 709, ch. 334, § 1.

Emergency. Effective June 16, 1961.

Section 2 of the amendatory Act of 1961 provides: "This Act does not apply to litigation pending as of the effective date of this Act."

**CHAPTER THREE—CITATION****Art. 2033. 1863, 1224. 1224 Against partners**

Saved from repeal, see art. 6132b, § 46.

Texas Uniform Partnership Act, see art. 6132b.

**CHAPTER SEVEN—THE JURY****1. JURIES IN CERTAIN COUNTIES****Art. 2101. Interchangeable juries**

4. Provided, however, that in any county of this state having a population in excess of nine hundred thousand (900,000) according to the last preceding or any future United States Census, it shall be permissible, after

having been approved by a majority of the judges for the district courts of any such county, to draw from said jury wheel two separate jury panels for the week; one of which said jury panels for the week shall be drawn and be in attendance upon those criminal district courts and county courts which have a criminal docket, and the other said jury panel for the week shall be drawn and be in attendance upon those courts which have a civil docket. Added Acts 1961, 57th Leg., p. 882, ch. 385, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 2102. Jury quarters

The Commissioners Court of each such county shall set apart for the use and convenience of said general panel or panels some room or rooms or place or places in or near to the court house, which shall be comfortably furnished and fitted up for them to stay when not required for actual jury service. Said quarters shall be occupied by said panel or panels when not in service and they shall remain in or conveniently near thereto so as to be at all times subject to duty in any court in accordance with the preceding Article when called for, without delaying the proceedings of such court. The sheriff shall assign one of his deputies to look after said panel, call them when needed by the judges, provide for their wants and to have general custody and control of them when not in actual service. As amended Acts 1961, 57th Leg., p. 883, ch. 386, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

### CHAPTER NINE—JUDGMENTS AND REMITTITUR

#### Art. 2223. 2006, 1347, 1346 Against partners

Saved from repeal, see art. 6132b, § 46.

Texas uniform partnership act, see art. 6132b.

### CHAPTER THIRTEEN—GENERAL PROVISIONS

#### 3. OFFICIAL COURT REPORTER

Art.	Art.
2326j—8. Compensation of reporter of 49th Judicial District [New].	2326j—11. Compensation of reporter for 118th Judicial District [New].
2326j—9. Appointment and compensation of reporters in 72nd, 99th, 140th Judicial Districts and in Lubbock County Courts at Law Nos. 1 and 2 [New].	2326j—12. Appointment and compensation of reporter in 112th judicial district [New].
2326j—10. Appointment and compensation of reporters in 70th and 161st judicial districts [New].	2326j—13. Compensation of reporters in the 23rd and 130th judicial districts [New].
	2326j—14. Compensation of reporter of 115th judicial district [New].

#### 3. OFFICIAL COURT REPORTER

#### Art. 2324. 1923-4-6 Duty of Reporter

Each Official Court Reporter shall:

Attend all sessions of the court; take full shorthand notes of all oral testimony offered in cases tried in said court, together with all objections to the admissibility of the evidence, the rulings and remarks of

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the court thereon, and all exceptions thereto; take full shorthand notes of closing arguments when requested to do so by the attorney for any party to such case, together with all objections to such arguments, the rulings and remarks of the court thereon, and all exceptions thereto;

Preserve all shorthand notes taken in said court for future use or reference for a full year, and furnish to any person a transcript of all such evidence or other proceedings, or any portion thereof as such person may order, upon the payment to him of the fees provided by law.

When any party to any suit reported by any such reporter shall desire a transcript of the evidence in said suit, said party may apply for same and the reporter shall make up such transcript and shall receive as compensation therefor the sum of not more than thirty cents per one hundred words for the original thereof, and in addition such reporter may make a reasonable charge, subject to the approval of the trial court if objection shall be made thereto, for postage and/or express charges paid; photostating, blue-printing or other reproduction of exhibits; indexing; and preparation for filing and special binding of original exhibits. Provided further, that in case any such reporter shall charge more than the fees herein allowed, whether by accident or design, and shall refuse to make proper refund or correction of such charges, he shall be liable to the person paying the same a sum equal to four times the excess so paid. As amended Acts 1955, 54th Leg., p. 1033, ch. 390, § 1; Acts 1961, 57th Leg., p. 620, ch. 290, § 1.

Emergency. Effective June 14, 1961.

#### Art. 2326j—8. Compensation of reporter of 49th Judicial District

The official shorthand reporter of the 49th Judicial District of Texas shall receive a salary of not to exceed Eight Thousand Dollars (\$8,000) per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the Judge of the 49th Judicial District Court, and shall be paid by the Commissioners Court of each of the counties comprising the 49th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund or any fund available for that purpose. Acts 1961, 57th Leg., p. 177, ch. 94, § 1.

Emergency. Effective May 3, 1961.

#### Title of Act:

An Act providing for the compensation of the official shorthand reporter of the 49th Judicial District Court of Texas; providing the manner of payment; and declaring an emergency. Acts 1961, 57th Leg., p. 177, ch. 94.

#### Art. 2326j—9. Appointment and compensation of reporters in 72nd, 99th, 140th Judicial Districts and in Lubbock County Courts at Law Nos. 1 and 2

The Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, and the Judges of County Court at Law No. 1, and County Court at Law No. 2, Lubbock County, Texas, shall each appoint an official shorthand reporter for his respective Judicial District or Court in the manner now provided for District Courts and County Courts at Law in this state, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporters shall receive a salary of not more than Nine Thousand Dollars (\$9,000.) per annum, said salary to be fixed and determined by the Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, and the respective judges of County Court at Law

No. 1 and County Court at Law No. 2, of Lubbock County, Texas, and shall be in addition to transcript fees, fees for statements of facts and all other fees. Said salary, when so fixed and determined by the District Judges of said respective courts, and the Judges of County Court at Law No. 1 and County Court at Law No. 2, shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters, as provided for in this Act shall be fixed and determined by the District Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, and the Judges of County Court at Law No. 1 and County Court at Law No. 2, of Lubbock County, Texas, and not otherwise. Acts 1961, 57th Leg., p. 328, ch. 175, § 1.

Effective 90 days after May 29, 1961,  
date of adjournment.

Lubbock county courts at law Nos. 1  
and 2, see arts. 1970—340, 1970—340.1.

Art. 2326j—10. Appointment and compensation of reporters in 70th and 161st judicial districts

Section 1. The Judges of the District Courts of the 70th and 161st Judicial Districts of Texas, shall each appoint an official shorthand reporter for his respective judicial district or court in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, said salary to be fixed, determined, set and allowed by the Judges of the 70th and 161st District Courts of Ector County, and shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary when so fixed and determined by the District Judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the District Judges of the 70th and 161st District Courts of Ector County and not otherwise. Acts 1961, 57th Leg., p. 683, ch. 319.

Effective 90 days after May 29, 1961,  
date of adjournment.

Deputy court reporter for 70th judicial  
district, see art. 2323a.

Art. 2326j—11. Compensation of reporter for 118th Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 118th Judicial District of Texas, composed of the counties of Howard, Martin, and Glasscock, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so

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determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 118th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1961, 57th Leg., p. 705, ch. 330.

Effective 90 days after May 29, 1961,  
date of adjournment.

**Title of Act:**

An Act relating to and fixing minimum and maximum salary of the official shorthand reporter for the 118th Judicial Dis-

trict of Texas; and declaring an emergency. Acts 1961, 57th Leg., p. 705, ch. 330.

**Art. 2326j—12. Appointment and compensation of reporter in 112th judicial district**

Section 1. The Judge of the District Court of the One Hundred Twelfth District of Texas shall appoint an official shorthand reporter for his judicial district or court in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, said salary to be fixed, determined, set and allowed by the Judge of the One Hundred Twelfth District Court of Pecos, Upton, Crockett and Sutton Counties, Texas, and shall be in addition to transcript fees, fees for statement of facts and all other fees. Said salary when so fixed and determined by the district judge of said court shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court of each of the counties covered by said judicial district, in the same manner as such salary has heretofore been paid. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of the One Hundred Twelfth District Court of Pecos, Upton, Crockett and Sutton Counties, Texas, and not otherwise. Acts 1961, 57th Leg., p. 729, ch. 342.

Effective 90 days after May 29, 1961,  
date of adjournment.

**Art. 2326j—13. Compensation of reporters in the 23rd and 130th judicial districts**

Section 1. That the Official Shorthand Reporters of the 23rd Judicial District of Texas and the 130th Judicial District of Texas, composed of the counties of Brazoria, Fort Bend, Matagorda, and Wharton shall receive a salary of Ninety-six Hundred Dollars (\$9600.00) per annum, in addition to all traveling expenses, transcript fees and all

other compensation now provided by law to be paid to said Official Shorthand Reporters, the specific amount of said salaries to be fixed by the District Judges of such Judicial Districts.

Sec. 2. The salaries of the Official Shorthand Reporters as herein fixed shall be paid monthly by the respective counties composing any of said Judicial Districts in accordance with the proportion fixed, made and determined by the District Judges of said Judicial Districts as to the amount to be paid monthly by each county in the Judicial Districts. Such salaries shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose. Acts 1961, 57th Leg., p. 987, ch. 430.

Effective 90 days after May 29, 1961,  
date of adjournment.

Art. 2326j—14. Compensation of reporter in 115th judicial district

That the official shorthand reporter of the 115th Judicial District of Texas, shall receive a salary of not less than Forty-eight Hundred Dollars (\$4800) per annum, nor more than Eight Thousand Dollars (\$8,000) per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the Judge of the 115th Judicial District Court, and shall be paid by the Commissioners Court of each of the counties comprising the 115th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund or any fund available for that purpose. Acts 1961, 57th Leg., p. 1046, ch. 465, § 1.

Emergency. Effective June 16, 1961.

Title of Act:

An Act providing for the compensation of the official shorthand reporter of the

115th Judicial District of Texas; providing the manner of payment; and declaring an emergency. Acts 1961, 57th Leg., p. 1046, ch. 465.

## TITLE 43—COURTS—JUVENILE

Art.

2338—14. Court of Domestic Relations for  
Jefferson County [New].

## Art. 2338—14. Court of Domestic Relations for Jefferson County

## Creation of Court

Section 1. There is hereby created a Court of Domestic Relations to be known as Court of Domestic Relations for Jefferson County, Texas.

## Judge: Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations shall be a legally licensed attorney at law in the state. No person shall be elected or appointed judge of said court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. He shall be paid a salary which shall be equal to the total salary paid to a District Judge of Jefferson County. The salary shall be paid out of the General Fund or Officers Salary Fund of Jefferson County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Jefferson County and shall be paid for his services as a member of the Juvenile Board in the same manner as other District Judges of Jefferson County, but in no event shall his total salary exceed the total salary paid to a District Judge of Jefferson County.

## Jurisdiction

Sec. 3. Said Court of Domestic Relations shall have jurisdiction concurrent with the District Courts situated in said county of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers and authority now or hereafter placed in the District, Domestic Relations or County Courts under the juvenile and child-welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearings, and any and every other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District, Domestic Relations or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said courts.

## Transfer of Cases and Papers

Sec. 4. The County Court of Jefferson County, the County Court of Jefferson County at Law, and the District Courts of Jefferson County may transfer to the Court of Domestic Relations any and all cases, in their respective courts in Jefferson County, Texas, over which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

**Writs and Process in Transferred Cases**

Sec. 5. All writs and process issued by or out of a District, Domestic Relations, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations shall be returned and filed in said Domestic Relations Court and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

**Court of Record; Place of Sitting; Seal; Dockets and Records; Clerks**

Sec. 6. The said Court of Domestic Relations shall be a court of record; shall sit and hold court at the county seat in Jefferson County; shall have a seal, and maintain all necessary dockets, records and minutes therein. The District Clerk of Jefferson County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform generally all such duties as are required generally of district clerks insofar as the same may be applicable in this court. The seal of the Court of Domestic Relations shall have a star of five points with the words "Court of Domestic Relations, Jefferson County, Texas," engraved thereon.

**Term of Office of the Judge; Appointment and Election; Removal; Vacancies; Cooperation by Juvenile Board; Disqualification, etc.; Special Judges**

Sec. 7. The term of office of the judge of the Court of Domestic Relations shall be for a period of four (4) years, the first full term of the Court of Domestic Relations to commence on January 1, 1963. Immediately upon passage of this Act, the Governor shall appoint a suitable person as judge of said court, such judge to hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, such judge shall be elected as provided by the Constitution and Laws of the state for the election of District Judges. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and Laws of the state for the removal of District Judges. A vacancy in the office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to said judge of the Court of Domestic Relations when deemed necessary or when sought by him; and shall cooperate with him in the administration of the affairs of said court. In the event of disqualification of the judge to try a particular case, or because of the illness, inability, failure or refusal of said judge to hold court at any time, the practicing lawyers of the court may elect a special judge of said court in the same manner as provided in Chapter 1 of Title 40 of the Revised Civil Statutes of 1925, and such special judge when so elected shall have and exercise all the powers and duties which the regular judge of said court could have and exercise.

**Boards and Officers, Duties of**

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Unit, County Welfare Office, County Health Officer, Sheriff, and Constable of Jefferson County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the



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State of Texas, shall render the same service and perform the same duties with reference to process and writs from said court as is required of them by law with reference to process and writs from District Courts.

#### Court Reporter; Bailiff

Sec. 9. The judge of the court created herein shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Jefferson County and whose salary shall be paid by the Commissioners Court of Jefferson County. A bailiff shall be designated by the Sheriff of Jefferson County to serve in the court created herein as in other courts of the county.

#### Custody of Children; Investigations

Sec. 10. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other case involving the custody of any such child, the said court or judge thereof, in its or his discretion, may require any juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of such child or children, and to make report thereof to such court, and, if desired by the court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination.

#### Writs and Orders; Contempt

Sec. 11. The said court and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

#### Terms of Court

Sec. 12. The first term of the court created herein shall begin when the judge of such court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the 31st day of August of the next year.

#### Appeals

Sec. 13. Appeals from judgments and orders of the said court shall be the Court of Civil Appeals for the Ninth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts.

#### Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by the provisions of this Act and the laws and rules pertaining to District Courts; provided, that juries shall be composed of twelve (12) members.

#### District Attorney to Prosecute or Defend

Sec. 15. The District Attorney of Jefferson County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Unit, County

Welfare Office, County Health Officer or any other welfare agency is interested.

**Transfer of Cases**

Sec. 16. This Court of Domestic Relations may transfer any case or matter to the County Court, County Court of Jefferson County at Law, or any other District Court of Jefferson County, having jurisdictional qualifications for such case or subject matter. Acts 1961, 57th Leg., p. 305, ch. 159.

Emergency. Effective May 16, 1961.

**TITLE 44—COURTS—COMMISSIONERS**

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| <p>Art.<br/>2352e. Water supply for county purposes; authority to acquire treatment and distribution facilities [New].</p> <p>2368a—7. Validation of contracts, scrip and time warrants; refunding bonds; acts and proceedings; exceptions [New].</p> <p>2368a—8. Validation of contracts, scrip or time warrants; refunding bonds; acts and proceedings; exceptions [New].</p> | <p>Art.<br/>2372f—1. Automobiles, purchasing for each commissioner; counties of 95,000 to 115,000 [New].</p> <p>2372p. Employment of special counsel in counties of more than 500,000 population [New].</p> <p>2372q. Acquisition of natural gas system for courthouses and other county buildings [New].</p> |
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**2. POWERS AND DUTIES**

**Art. 2351. 2241, 1537, 1514 Certain powers specified**

Construction of county office buildings outside county seat in certain counties of at least 22,000 inhabitants, see art. 1605a—2.      Counties of less than 20,000, joint financing and construction of jails with cities, see art. 5115a.

**Art. 2351a—1. Fire protection and fire fighting equipment in all counties; contracts; liability of municipalities for firemen's acts**

Section 1. The Commissioners Court in all counties of this State shall be authorized to furnish fire protection and fire-fighting equipment to the citizens of such county residing outside the city limits of any incorporated city, town or village within the county and/or adjoining counties. The Commissioners Court shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon, and is hereby authorized to issue time warrants of the county and to levy and collect taxes to pay the interest and principal thereon as provided by law. The Commissioners Court of any county of this State shall also have the authority to enter into contracts with any city, town or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of such city, town or village, for the use of the fire trucks and other fire-fighting equipment of the city, town or village. It is specifically provided that the acts of any person or persons while fighting fires, traveling to or from fires, or in any manner furnishing fire protection to the citizens of a county outside the city limits of any city, town or village, shall be considered as the acts of agents of the county in all respects, notwithstanding such person or persons may be regular employees or firemen of a city, town or village. No city, town or village within a county and/or adjoining counties shall be held liable for the acts of any of its employees while engaged in fighting fires outside the city limits pursuant to any contract theretofore entered into between the Commissioners Court of the county and the governing body of the city, town or village. As amended Acts 1961, 57th Leg., p. 492, ch. 234, § 1.

Emergency. Effective May 26, 1961.

**Art. 2352e. Water supply for county purposes; authority to acquire treatment and distribution facilities**

**Adoption of provisions of act by commissioners court**

Section 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any county within this state only upon the unanimous vote of the members of such court.

Authority to acquire or construct source of supply; pools, lakes, reservoirs, wells, dams; treatment and distribution facilities; limitation on cost

Sec. 2. The Commissioners Court of any county is hereby authorized to acquire by purchase, construction or otherwise an adequate source of fresh water, either surface or subterranean, for the purpose of supplying water to the courthouse and for other county purposes provided that such county shall comply with the provisions of Chapter I, Title 128, R.C.S. of Texas, 1925, as amended, relating to water permits, where applicable; and in the furtherance of such project such county shall be authorized and empowered to purchase, construct, repair and maintain pools, lakes, reservoirs, wells, dams, and such treatment and distribution facilities as may be required, all of which is hereinafter sometimes referred to as the project; provided, however, that no project or projects adopted by any one county under the provisions of this Act shall exceed the total cost of Two Hundred Fifty Thousand Dollars (\$250,000), exclusive of interest.

Sale of water not needed for county purposes

Sec. 3. The Commissioners Court of any county is hereby authorized and empowered to sell, contract to sell, deliver and distribute any or all water of the project which is not needed for county purposes to any municipal corporation or political subdivision of this state now created or existing or hereafter established under the laws of the State of Texas, or to any individual, corporation or company under such terms and conditions as the court may determine to be in the best interests of the county, but in no event may the county sell water under the terms of this Section if an adequate public water supply is available to such municipal corporation, political subdivision, individual, corporation or company at the time the provisions of this Act are adopted by the county, nor shall the county sell water under this Act for irrigation purposes. The cost of supplying the water, including any increase in the cost of acquisition, storage, treatment and distribution facilities shall be considered a part of the cost of the project as such term is used in the preceding and following Sections.

Bond issue; ad valorem tax; rates and charges for water; limitation on cost of project

Sec. 4. (a) For the purpose of paying the cost of the project, including, without limitation, legal, fiscal, engineering expenses, and interest during the construction of the project, the county may, after approval in an election as hereinafter provided, issue its negotiable bonds payable from and secured by a pledge of the net revenues of the project. When so provided in the order, and after an election, authorizing the issuance of bonds, bonds issued by the county may be additionally secured by levy of an ad valorem tax on the taxable property of the county out of the Permanent Improvement Tax prescribed under Article 8, Section 9 of the Constitution. If the bonds are to be supported by a tax, the Commissioners Court shall levy such tax sufficient to pay the interest on the bonds as it accrues and the principal as it matures, but the order authorizing the issuance of the bonds may provide that the amount of tax to be collected each year may be reduced or abated to the extent that money is on hand from the pledged revenues applicable to the payment of interest and principal.

(b) As to bonds issued by the county secured solely by a pledge of net revenues of the project as aforesaid, it shall be the mandatory duty of the Commissioners Court to contract for and impose such rates and charges, for water supplied by the project as will be fully sufficient to operate and

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maintain the project and produce all amounts required to pay principal and interest on the bonds when due, and establish such reserves as may be provided in the order authorizing the issuance of such bonds.

(c) All water used by the county for its own facilities shall be paid for out of general funds of the county legally available for such purpose and no free service shall be allowed.

(d) Prior to the construction of the proposed work or any future additional improvements, works or construction, the Commissioners Court must enter a resolution ordering an election on a day certain. Based on such order, notice of such election shall be given, returns made, result declared, orders entered, tax levied, certified, assessed, or collected, and all other matters applicable shall be performed as required by the resolution and order. The order shall set forth the proposed project, the amount of bonds to be issued to pay for the same, their rate of interest and maturity dates, and shall show whether or not a tax shall be levied to redeem such bonds and if so the amount of the tax.

(e) In the event a majority of the electors who own taxable property in the county and who have duly rendered the same for taxation approve the issuance of the bonds, then the Commissioners Court shall issue such bonds as hereinafter provided. In no event shall any single project proposed by the Commissioners Court require the issuance of bonds whose total par value is in excess of Two Hundred Fifty Thousand Dollars (\$250,000).

(f) The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof provided the bonds shall bear interest at not exceeding six percent (6%) per annum and mature in not more than forty (40) years from their date and such order may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance, operation, repair and insurance of the project, and the custody, safeguarding, and application of all moneys, and may set forth the rights and remedies of the bondholders and may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the rights, liabilities, powers and duties arising upon breach by the county of any of its duties or obligations. The bonds may be made redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court in the order authorizing their issuance. All bonds issued hereunder shall and are hereby declared to have all the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. The proceeds of the bonds shall be used solely to pay the cost of the project as above provided, and shall be disbursed under such restrictions as may be provided in the bond order, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds. Pending use of the proceeds of the sale of such bonds for the construction of the project such proceeds may be invested in direct obligations of the United States Government having maturities not more than ninety-one (91) days from the date of investment. Unless otherwise provided in such order or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the project, additional bonds may be issued under the methods herein prescribed to the amount of the deficit.

**Bonds not supported by tax levy as revenue bonds**

Sec. 5. If the bonds are not supported by a tax levy, they shall never constitute a debt of the county, but shall be solely a charge upon the pledged revenues, and shall never be reckoned in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law, and each bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

**Bonds; signature; registration; approval by Attorney General; incontestability**

Sec. 6. The bonds shall be signed by the county judge and attested by the county clerk, but the facsimile signature of such officials may be printed or lithographed on the bonds in accordance with the provisions of Chapter 293, Acts of the 54th Legislature, 1955. The county treasurer shall register the bonds, but he need not sign them. The seal of the Commissioners Court shall be impressed on the bonds or a facsimile of the seal may be printed or lithographed thereon. The bonds and the record relating to their issuance shall be presented to the Attorney General of Texas, and if they have been issued in accordance with the Constitution and this law he shall approve them. Upon approval by the Attorney General the bonds shall be registered by the Comptroller of Public Accounts, and thereafter the bonds and the provisions made for their security and payment shall be incontestable.

**Acquisition of land and easements; eminent domain; relocation**

Sec. 7. For the purpose of carrying out any power or authority conferred by this Act the county shall have the right to acquire land and easements, by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Commissioners Court. In the event that the county, 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 or pipeline or telephone or telegraph properties and facilities, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the county. The term "sole expense" shall mean the actual cost of relocation, raising, rerouting, 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.

**Additional bonds; pledge of revenues; security**

Sec. 8. Additional bonds payable solely by a pledge of the net revenues of the project as well as additional bonds payable from the net revenues of the project and additionally secured by levy of an ad valorem tax on the taxable property of the county may be issued for the purpose of improving, repairing or extending the project or for any or all such purposes if permitted by the order authorizing the original issue of bonds, and if authorized by proper election.

**Refunding bonds; issuance; interest**

Sec. 9. Subject to any restrictions which may appear in the bond authorizing order, the Commissioners Court may provide for the issuance of bonds for the purpose of refunding any of the bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within six (6) months. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total of interest to be paid.

**Bonds as legal investments; bonds as security for deposits of public funds**

Sec. 10. All bonds issued under this law 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, guardians, and for the sinking funds 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 cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value.

**Mandamus to compel levy and collection of taxes and to perform agreements**

Sec. 11. The holder or holders of any of such bonds herein authorized to be issued shall have the right, in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against the agents and the employees thereof, including but not limited to the right to require the county to impose and collect sufficient rates and charges to carry out the agreements contained in the bond order and to perform all agreements and covenants therein contained and duties arising therefrom.

**Taxes pledged to pay bonds**

Sec. 12. Obligations issued pursuant to the provisions of this Act which are secured wholly or partially by a pledge of taxes out of the Permanent Improvement Tax prescribed under Article 8, Section 9 of the Constitution shall be considered as payable wholly from such tax for the purpose of determining the availability of taxing power of the county to pay obligations which are payable from such tax.

**Law cumulative**

Sec. 13. This Act is declared cumulative of all other Acts or laws and the powers, rights and privileges and functions hereby conferred shall not prevent the exercise by any county of any and all other powers, rights, privileges, or functions conferred upon such county by any other Act or law now existing or hereafter enacted. Specifically, nothing herein shall prevent any county from issuing warrants in connection with the project

in the manner prescribed by Chapter 163, Acts of the 42nd Legislature, 1931, as amended.

**Facilities, etc., free from taxation; bonds tax exempt**

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom including any profits made on the sale thereof, shall at all times be free from taxation within this state.

**Partial invalidity**

Sec. 15. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

**Time limitation on adoption by county**

Sec. 15a. No county may adopt the provisions of this Act after September 1, 1963. Acts 1961, 57th Leg., p. 990, ch. 433.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 2368a—7. Validation of contracts, scrip and time warrants; re-funding bonds; acts and proceedings; exceptions**

Section 1. In every instance since the approval by the Governor of Texas of Chapter 321, Acts of the Fifty-sixth Legislature, Regular Session, 1959,<sup>1</sup> where the Commissioners Court of a county or the governing body of a city (including Home Rule Cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule Cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule Cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of two hundred and fifty thousand (250,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.



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Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule Cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home Rule Cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of two hundred and fifty thousand (250,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective. Acts 1961, 57th Leg., p. 245, ch. 126.

<sup>1</sup> Article 2368a—6.

Effective 90 days after May 29, 1961, date of adjournment.

For similar provisions enacted in 1959, see art. 2368a—6.

**Art. 2368a—8. Validation of contracts, scrip or time warrants; refunding bonds; acts and proceedings; exceptions**

Section 1. In every instance since the approval by the Governor of Texas of Chapter 321, Acts of the Fifty-sixth Legislature, Regular Session, 1959,<sup>1</sup> where a county or a city (including Home Rule Cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, products, services, personal services, professional services, equipment, labor, or supervision and has heretofore adopted contracts, orders or ordinances to authorize the payment therefor out of any fund or funds of such county, city (including Home Rule Cities) or town or the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule Cities) or town for the cost of such public works or improvements, land, material, supplies, products, services, personal services, professional services, equipment, labor, or supervision, all such contracts, scrip and time warrants and the proceedings adopted by or in behalf of the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule Cities) or town and paid for by the day as the work progressed and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to or validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county or city (including Home Rule Cities) with a population of less than two hundred and fifty thousand (250,000) or any county with a population of more than three hundred and fifty thousand (350,000) ac-

ording to the last preceding Federal Census, or any contract, scrip warrant or time warrant the validity of which is now in litigation.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule Cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home Rule Cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county or city (including Home Rule Cities) with a population of less than two hundred and fifty thousand (250,000) or counties with a population of more than three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is now in litigation. Acts 1961, 57th Leg., 1st C.S., p. 30, ch. 9.

<sup>1</sup> Article 326k—42.

Emergency. Effective Aug. 8, 1961.

**Art. 2372. Interpreters**

Interpreters for deaf or deaf-mute persons in criminal prosecutions, see Vernon's Ann.C.C.P. art. 733a.

**Art. 2372f—1. Automobiles, purchasing for each commissioner; counties of 95,000 to 115,000**

In any county in this State having a population of not less than ninety-five thousand (95,000) and not more than one hundred fifteen thousand (115,000) according to the last preceding Federal Census the Commissioners Court is hereby authorized to allow each Commissioner to purchase an automobile to be used in each respective precinct on official business, to be paid for out of county funds and each Commissioner shall make under oath an account of his expenditures for such purpose. Acts 1961, 57th Leg., p. 1033, ch. 456, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 2372j. County office building and other buildings; certain counties of 90,000 to 225,000**

Construction of county office buildings of at least 22,000 inhabitants, see art. 1605a—2.

**Art. 2372p. Employment of special counsel in counties of more than 500,000 population**

Section. 1. The Commissioners Court of all counties containing more than five hundred thousand (500,000) population according to the last preceding Federal Census shall have the authority to employ special

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counsel, learned in the law, to represent the county in all suits brought by or against such county, and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain rights-of-way for state highways, or to assist in the acquisition of such rights-of-way; to represent the county in all condemnation proceedings for the acquisition of rights-of-way for highways and other proper purposes where the right of eminent domain is given to counties. Provided, however, that in such counties having a County Attorney, the special counsel shall be named by the County Attorney, and in such counties having no County Attorney, special counsel shall be named by the District Attorney or Criminal District Attorney, and such employment shall be made for such time and on such terms as said County Attorney, District Attorney, or Criminal District Attorney may deem proper and expedient, subject to the approval of the Commissioners Court. Acts 1961, 57th Leg., p. 493, ch. 235.

Emergency. Effective May 27, 1961.

Assistants and other appointments by district and county attorneys of 125,001, see art. 3886a.

Assistants, appointment by county attorney, see art. 331.

Deputies, assistants or clerks, appointment, see art. 3902.

Special investigators and assistant district attorneys, see art. 324.

#### Art. 2372q. Acquisition of natural gas system for courthouses and other county buildings

##### Adoption of act; eligible county defined

Section 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any eligible county within this state upon a majority vote of the members of such court. An eligible county is defined to mean any county which at the time of the adoption of this Act by the county has a county seat that is an unincorporated community or city with a population in excess of 5,000 inhabitants, according to the then last preceding Federal Census.

##### Purchase or construction of system; facilities for supply and distribution

Sec. 2. In order to acquire an adequate and dependable supply of natural gas for the county courthouse, county offices and other county buildings, the Commissioners Court of any eligible county is authorized to acquire by purchase or construction (but not through the exercise of the power of eminent domain) a natural gas system and in the furtherance of such project, such county shall be authorized to construct, repair and maintain such facilities for the supply and distribution of natural gas as may be required for the purpose of supplying natural gas to the courthouse, county offices and other county buildings, all of which is hereinafter sometimes referred to as the Project.

##### Sale of gas not needed for county purposes

Sec. 3. The Commissioners Court of any eligible county is hereby authorized and empowered to sell, contract to sell, deliver and distribute any or all natural gas of the Project which is not needed for county purposes to any municipal corporation or political subdivision of this state now existing or hereafter established under the laws of the State of Texas, or to any individual, corporation or company under such terms and conditions as the court may determine to be in the best interest of the county.

The cost of supplying the natural gas, including any increase in the cost of the distribution lines or facilities, shall be considered as a part of the Project as such term is used in the preceding and the following Sections.

**Bonds; rates and charges; manner of sale; redemption; proceeds**

Sec. 4. (a) For the purpose of paying the cost of the Project, including, without limitation, legal, fiscal, engineering expenses, and interest during the construction of the Project, the county may issue its negotiable bonds, payable from and secured by a pledge of the net revenues of the Project.

(b) It shall be the mandatory duty of the Commissioners Court to contract for and impose such rates and charges, for gas supplied by the Project as will be fully sufficient to operate and maintain the Project and produce all amounts required to pay principal and interest on the bonds when due, and establish such reserves as may be provided in the order authorizing the issuance of such bonds.

(c) All gas used by the county for its own facilities shall be paid out of General Funds of the county legally available for such purpose and no free service shall be allowed.

(d) The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof provided the bonds shall bear interest at not exceeding six percent (6%) per annum and mature in not more than forty (40) years from their date and such order may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance, operation, repair and insurance of the Project, and the custody, safeguarding, and application of all moneys, and may set forth the rights and remedies of the bondholders and may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the rights, liabilities, powers and duties arising upon breach by the county of any of its duties or obligations. The bonds may be made redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court in the order authorizing their issuance. All bonds issued hereunder shall and are hereby declared to have all the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. The proceeds of the bonds shall be disbursed under such restrictions as may be provided in the bond order, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds. Pending use of the proceeds of the sale of such bonds for the construction of the Project such proceeds may be invested in direct obligations of the United States Government having maturities not more than ninety-one (91) days from the date of investment. Unless otherwise provided in such order or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the Project, additional bonds may be issued under the methods herein prescribed to the amount of the deficit.

**Debt of county; pledge of revenues**

Sec. 5. The bonds shall never constitute a debt of the county, but shall be solely a charge upon the pledged revenues, and shall never be

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reckoned in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law, and each bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

#### Form of bonds; approval

Sec. 6. The bonds shall be signed by the county judge and attested by the county clerk, but the facsimile signatures of such officials may be printed or lithographed on the bonds in accordance with the provisions of Chapter 293, Acts of the 54th Legislature, 1955. The county treasurer shall register the bonds, but he need not sign them. The seal of the Commissioners Court shall be impressed on the bonds or a facsimile of the seal may be printed or lithographed thereon. The bonds and the record relating to their issuance shall be presented to the Attorney General of Texas, and if they have been issued in accordance with the Constitution and this law he shall approve them. Upon approval by the Attorney General the bonds shall be registered by the Comptroller of Public Accounts, and thereafter the bonds and the provisions made for their security and payment shall be incontestable.

#### Eminent domain

Sec. 7. It is expressly provided that an eligible county shall not have any power of eminent domain in the acquisition of any existing facilities constituting the Project as that term is used in Section 2 of this Act, nor shall any such county exercise such power outside of its own territorial limits, but for the purpose of carrying out any other power or authority conferred by this Act, such county shall have the right to acquire land and easements, by condemnation in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Commissioners Court. In the event that the county, in the exercise of the power of eminent domain or power of relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocations, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the county.

#### Additional bonds

Sec. 8. Additional bonds payable solely by a pledge of the net revenues of the Project as well as additional bonds payable from the net revenues of the Project may be issued for the purpose of improving, repairing or extending the Project or for any or all such purposes if permitted by the order authorizing the original issue of bonds, and under the conditions therein provided.

#### Refunding bonds

Sec. 9. Subject to any restrictions which may appear in the bond authorizing order, the Commissioners Court may provide for the issuance of bonds for the purpose of refunding any of the bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be

applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within six (6) months. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a savings will result in the total of interest to be paid.

#### Notice of intention to issue bonds

Sec. 10. No bonds may be authorized under and pursuant to the provisions of this Act until such time as the Commissioners Court of such county has, after adoption of the provisions hereof as provided in Section 1, given notice of intention to issue bonds. Such notice shall specify the maximum amount of bonds proposed to be issued, the maximum interest rate and maximum maturity of the proposed bonds and the time and place the court proposes to proceed with the authorization thereof and such notice shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in such county, the date of the first publication being at least fourteen (14) full days prior to the date set for the authorization of such bonds. Upon the time and place specified in said notice, the court may proceed with the authorization of bonds pursuant to the provisions of this Act, provided, however, if a petition executed by more than ten percent (10%) of the resident qualified property taxpaying voters of the county asking that an election be called on the issuance of such bonds is presented to the court, the court may not proceed with the authorization of bonds until such time as a proposition for the issuance of bonds has been approved by a majority of the resident qualified property taxpaying voters of the county at an election held for such purpose. Notice of any such election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in such county one (1) each week for two (2) consecutive weeks, the first publication being at least fourteen (14) full days prior to the election. The returns of the election shall be made to the Commissioners Court within five (5) days of the holding of such election. The General Laws relating to elections shall be applicable to such elections except as modified by the provisions of this Act.

#### Legal and authorized investments

Sec. 11. All bonds issued under this law 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, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value.

#### Enforcement of rights against county

Sec. 12. The holder or holders of any of such bonds herein authorized to be issued shall have the right, in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against the agents and employees thereof, including but not limited to the right

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

to require the county to impose and collect sufficient rates and charges to carry out the agreements contained in the bond order and to perform all agreements and covenants therein contained and duties arising therefrom.

#### Cumulative effect

Sec. 13. This Act is declared cumulative of all other Acts or laws and the powers, rights and privileges and functions hereby conferred shall not prevent the exercise by any such county of any and all other powers, rights, privileges, or functions conferred upon such county by any other Act or law now existing or hereafter enacted.

#### Accomplishment of purposes of act

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the Project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom including any profits made on the sale thereof, shall at all times be free from taxation within this state. Acts 1961, 57th Leg., p. 638, ch. 298.

Emergency. Effective June 14, 1961.

Acquisition of gas system by city or town, see arts. 969, 1015d.

Appeals from district court for excessive rates, see art. 1129.

Bonds, see art. 1114.

County building authority, see art. 2372o.

County buildings, see art. 1603.

Courthouse, jail and other bonds, see art. 718 et seq.

Eminent domain, see art. 3264 et seq.

Powers and duties of commissioners' courts, see art. 2351.

Public building, powers of city owning natural gas distribution system, see art. 1015h.

Public utilities, cities and towns, see art. 1108.

## TITLE 46—CREDIT ORGANIZATIONS

Art. 2465. Supervision; examination; examiners; fees; expenses; independent examinations; and surety bonds

Section 1. Such credit union shall maintain such books and records as the Banking Commissioner may deem necessary. The Banking Commissioner shall cause each credit union to be examined at least once yearly, such examination to be made by:

(a) One or more credit union examiners who shall be appointed by the Banking Commissioner and who shall receive, in addition to the salary fixed and determined by the Finance Commission, all necessary traveling expenses, a sworn itemized account of which shall be rendered monthly by each examiner and approved by the Commissioner; or by

(b) The Deputy Banking Commissioner, departmental examiner, any bank examiner, assistant bank examiner, building and loan supervisor, building and loan examiner, loan and brokerage supervisor, loan and brokerage examiner or credit union supervisor.

Each credit union examined shall pay an examination fee fixed by the Banking Commissioner not to exceed Fifty-Five Dollars (\$55.00) per day per person engaged in each examination or a total fee of Ten Dollars (\$10.00) per One Thousand Dollars (\$1,000.00) of assets or fraction thereof as reflected by the examination, whichever is lower, with a minimum of Ten Dollars (\$10.00). Such fees, penalties or revenues collected by the Banking Department, shall be retained by said Department and shall be expended only for the expenses of said Department.

Sec. 2. The Banking Commissioner may in his discretion require any credit union to employ at its expense a certified public accountant or a public accountant licensed by the State of Texas, subject to the approval of the Commissioner, to conduct an independent examination of the books, records and affairs of the credit union.

Sec. 3. The Banking Commissioner is authorized, empowered, and directed to require that every person appointed or elected by any credit union to any position requiring the receipt, payment, or custody of money or other personal property owned by a credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company holding a license or permit to do business in the State of Texas in accordance with the Insurance Code of Texas. Any such bond or bonds shall be in a form approved by the Banking Commissioner with a view to providing surety coverage to the credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and such other surety coverages as the Banking Commissioner may determine to be reasonably appropriate. Any such bond or bonds shall be in such an amount in relation to the money or other personal property involved or in relation to the assets of the credit union as the Banking Commissioner may from time to time prescribe by regulation for the purpose of requiring reasonable coverage. In lieu of individual bonds the Banking Commissioner may approve the use of a form of blanket bond which covers all of the officers and employees of a credit union whose duties include the receipt, payment or custody of money or other personal property for or in behalf of the credit union. The Banking Commissioner may also approve the use of a form of excess coverage bond whereby a credit union may obtain



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an amount of coverage in excess of the basic surety coverage. The Banking Commissioner may prescribe regulations to fulfill the requirements of this paragraph. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 5; Acts 1953, 53rd Leg., p. 477, ch. 166, § 1; Acts 1959, 56th Leg., p. 808, ch. 365, § 1; Acts 1961, 57th Leg., p. 70, ch. 42, § 1.

Emergency. Effective April 6, 1961.

#### Art. 2470. Officers; directors duties and responsibilities

At their first meeting the board of directors shall elect from their number a president, vice-president, clerk and a treasurer, who shall be the executive officers of the association. The board of directors shall have the general management of the affairs, funds and records of the association, and shall meet as often as may be necessary. It shall be their special duty:

1. To act upon all applications for membership either directly or through a membership officer, appointed by the board from among the members of the credit union, who may be authorized to approve applications for membership under such conditions as the board may prescribe. The membership officer, if appointed, shall submit to the board at least once each month a list of approved or pending applications for membership received since the previous board meeting, together with such other related information as the bylaws or the board may require. No person holding the office of treasurer, assistant treasurer or loan officer shall be eligible for the office of membership officer.

2. To act upon the expulsion of members.

3. To fix the amount of surety bond which shall be required of each officer having custody of the funds, in compliance with such regulations as may be prescribed by the Banking Commissioner.

4. To determine the rate of interest on loans.

5. To fill vacancies in the board of directors or in the credit committee of the association until the election and qualification of officers to fill said vacancies.

6. To determine the maximum number of shares which may be held by any one (1) member.

7. To determine the maximum amount which may be lent to any one (1) member.

8. To make recommendations to meetings of the members relative to the amount of entrance fee; the dividend to be declared; amendments to the bylaws and any other matters which in their opinion, the members should decide. As amended Acts 1961, 57th Leg., p. 70, ch. 42, § 2.

Emergency. Effective April 6, 1961.

#### Art. 2471. Credit committee: loans and loan officers

Section 1. The board of directors shall elect a credit committee of not less than three (3) members and the members thereof shall hold office until their successors are elected and qualified.

Sec. 2. No loan shall be made by the credit union unless the credit committee is satisfied that it promises to benefit the borrower, nor unless it has received the unanimous approval of those members of said committee who were present when it was considered, nor if any member of said committee shall disapprove thereof; except that the credit committee may appoint one (1) or more loan officers, and delegate to him or them the power to approve individual applications for loans up to a maximum of Seven Hundred Fifty Dollars (\$750.00) per member, or in excess of

such limit if such excess is fully secured by unpledged shares in the credit union. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven (7) days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as loan officer. Not more than one (1) member of the credit committee may be appointed as loan officer. The applicant for a loan may appeal from the decision of the credit committee to the board of directors.

Sec. 3. Every application for a loan shall be made in writing and shall state the purpose for which the loan is desired, and the security offered. As amended Acts 1961, 57th Leg., p. 70, ch. 42, § 3.

Emergency. Effective April 6, 1961.

**Art. 2482. Dividends**

A dividend may be paid from income which has been actually collected from the time the credit union began business to the close of the fiscal year next preceding such payment, after deduction of all expenses and the statutory guaranty fund to the close of said fiscal year. Before any such dividend may be paid, it shall first be declared at the annual meeting. Such dividend shall be paid on all fully paid shares outstanding at the close of the fiscal year, but shares which become fully paid during the year shall be entitled only to a proportional part of said dividend, calculated from the first day of the month following such payment in full, except that dividend credit for a month may be accrued on shares which are or become fully paid up during the first ten (10) days of that month. Dividends due to a member shall be paid to him in cash or credited to the account of partly paid shares for which he has subscribed. Dividends shall not exceed six per cent (6%) per annum. Formerly art. 2481. Reassigned and codified as art. 2482 and amended Acts 1957, 55th Leg., p. 679, ch. 285, § 2; Acts 1961, 57th Leg., p. 70, ch. 42, § 4.

Emergency. Effective April 6, 1961.

## TITLE 49—EDUCATION—PUBLIC

Chap.		Art.
2A.	University of Houston [New]	26159

## CHAPTER ONE—UNIVERSITY OF TEXAS

Art.		Art.
2603b—2.	Conveyance of tract to El Paso County; stadium site; lease agreement [New].	2603j.
2603b—3.	Acquisition of land in El Paso County for Texas Western College [New].	Exchange of land with Dallas County Hospital District for children's hospital [New].

Art. 2603b—2. Conveyance of tract to El Paso County; stadium site; lease agreement

Section 1. The Board of Regents of The University of Texas is hereby authorized and empowered to select a tract of land not exceeding sixty-five (65) acres upon the campus of Texas Western College, El Paso, El Paso County, Texas, a part of The University of Texas System, and to convey such tract so selected to the County of El Paso, Texas, as a stadium site upon which site will be erected and constructed a stadium, parking areas, access roads, and related facilities by the County of El Paso, Texas, at its expense, said conveyance to provide that title to said tract of land shall revert to the Board of Regents should such stadium be abandoned permanently, and said conveyance to contain such other considerations as may be mutually agreeable to the Board of Regents and the County of El Paso.

Sec. 2. The Board of Regents of The University of Texas is further authorized to contract with the County of El Paso for the leasing of the stadium to the Board of Regents of The University of Texas for the use and benefit of Texas Western College by the County of El Paso for a term of ninety-nine (99) years at a consideration of One Dollar (\$1.00) per year, said lease to provide for a reservation of use by the County of El Paso for the staging of the Sun Bowl activities and such other considerations as may be mutually agreeable to the Board of Regents and the County of El Paso: said Board of Regents to grant easements to the County of El Paso for right-of-way for public ways as will provide adequate ingress and egress by the public in using said stadium.

Sec. 3. The Board of Regents of The University of Texas and the County of El Paso are hereby authorized to execute and deliver all instruments, including a deed of conveyance and a lease agreement, and do all things necessary to carry out the purpose and intent of this law. Acts 1961, 57th Leg., p. 23, ch. 13.

Emergency. Effective Feb. 21, 1961.	Eminent domain by board of regents acting as trustees, see art. 3264b.
Control of lands by board of regents, see art. 2596.	Powers of board of regents, see arts. 2585, 2586.
Control of lands, see art. 2596.	Texas Western College, see art. 2633 et seq.

Art. 2603b—3. Acquisition of land in El Paso County for Texas Western College

The Board of Regents of The University of Texas for and on behalf of Texas Western College, El Paso, Texas, is hereby authorized to acquire by purchase, exchange or otherwise any tract or parcel of land in El Paso County, Texas, contiguous and/or adjacent to the campus of Texas Western College of El Paso when such lands are deemed necessary for campus expansion by the Board of Regents of The University of Texas. Acts 1961, 57th Leg., p. 53, ch. 35, § 1.

Emergency. Effective March 25, 1961.

Title of Act:

An Act authorizing the Board of Regents of The University of Texas for and on behalf of Texas Western College, El Paso, Texas, to acquire by purchase, exchange or otherwise tracts of land in El Paso County,

Texas, contiguous and/or adjacent to the campus of Texas Western College when deemed necessary by the Board of Regents; and declaring an emergency. Acts 1961, 57th Leg., p. 53, ch. 35.

Art. 2603g. Lease of lands in Dallas County for hospitals, etc.

Exchange of land with Dallas County Hospital District for children's hospital, see art. 2603j.

Art. 2603j. Exchange of land with Dallas County Hospital District for children's hospital

Authority of board of regents; trade and exchange; description; deed

Section 1. The Board of Regents of The University of Texas is hereby authorized and empowered to trade and exchange not more than ten (10) acres of land on the western corner of the campus of The University of Texas Southwestern Medical School in Dallas, Texas, being bound on the north by Inwood Road and on the south by the right-of-way of the Chicago, Rock Island, and Gulf Railway, the same being in the Wm. B. Coats Survey, Abstract No. 236, Dallas County, Texas, for a tract of land of seven and one-half (7½) acres, more or less, belonging to the Dallas County Hospital District, adjacent to the Parkland Memorial Hospital, Dallas, Texas, the same being in the A. Bahn Survey, Abstract No. 182, and/or the Wm. B. Coats Survey, Abstract No. 236, Dallas County, Texas, and to accomplish such trade and exchange the Board of Regents of The University of Texas is authorized and directed to convey on behalf of the State of Texas the ten (10) acre tract of land heretofore described in this Section to the Dallas County Hospital District, owner of the seven and one-half (7½) acre tract above described, upon the execution and delivery of a good and sufficient deed of conveyance from the Dallas County Hospital District to the State of Texas for the use and benefit of the Board of Regents of The University of Texas of the seven and one-half (7½) acre tract.

Conveyance to Children's Medical Center of Dallas; purpose; facility for University of Texas Southwestern Medical School

Sec. 2. The Board of Regents of The University of Texas on behalf of the State of Texas is hereby authorized and empowered to convey the seven and one-half (7½) acre tract received in exchange from the Dallas County Hospital District to the governing board of the Children's Medical Center of Dallas, Dallas County, Texas, for a construction site of a children's hospital in consideration of the same being made available as a full-time teaching facility for The University of Texas Southwestern Medical School in Dallas, Texas; provided, however, that neither

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The University of Texas Southwestern Medical School nor the Board of Regents of The University of Texas shall ever incur any financial obligation or expend any funds appropriated by the Legislature for the construction, maintenance, or operation of such children's hospital.

#### Execution of deed; attestation

Sec. 3. The deed of conveyance of the land exchanged and of the seven and one-half (7½) acres conveyed to the governing board of the Children's Medical Center of Dallas by the Board of Regents of The University of Texas for and on behalf of the State of Texas shall be executed by the Chairman of the Board of Regents of The University of Texas and attested by its Secretary pursuant to a resolution directing such conveyance.

#### Contents of deeds; contractual terms

Sec. 4. Each deed to be executed as provided for in this Act shall contain by reference any and all easements, reversions, and restrictions to which any tract or tracts conveyed by any party is subject or agreed upon; provided, however, that no deeds shall be exchanged until a contract is negotiated and executed between the Board of Regents of The University of Texas and the governing board of the Children's Medical Center of Dallas which shall obligate the governing board of the Children's Medical Center to construct and operate a children's hospital as a teaching hospital fully integrated with the medical program of The University of Texas Southwestern Medical School, without cost to the State of Texas and which contract shall contain such other terms and conditions as the Board of Regents of The University of Texas shall deem reasonable. Acts 1961, 55th Leg., p. 215, ch. 113.

Emergency. Effective May 10, 1961.

Dallas State Hospital, creation, see art. 3192a.

Lease of lands in Dallas County for hospitals, see art. 2603g.

## CHAPTER TWO A—UNIVERSITY OF HOUSTON [NEW]

Art.

2615g. University created.

Art. 2615g. University created

#### Creation of the University

Section 1. There is hereby established in the City of Houston, Harris County, Texas, a co-educational institution of higher learning, which shall be known as the University of Houston, to be conducted, operated and maintained under a Board of Regents as herein provided.

#### Organization and Control

Sec. 2. The organization and control of such University shall be vested in a Board of nine (9) Regents, who shall be appointed by the Governor of Texas with the advice and consent of the Senate. The term of office of each Regent shall be six (6) years, provided that in making the first appointment the Governor shall appoint three (3) members for six (6) years, three (3) members for four (4) years and three (3) members for two (2) years. Any vacancy that occurs on the Board shall be filled for the unexpired term by appointment of the Governor.

Each member of the Board shall take the Constitutional oath of office. Each member of the Board of Regents shall be a citizen of the State of

Texas. The said Board of Regents shall meet for the first time, after the passage of this Act, at the time and place designated by the Governor, or as soon after their appointment as possible. They shall organize by electing one (1) of the members Chairman, and by electing such other officers as they deem necessary. They shall enact such by-laws, rules and regulations as may be necessary for the successful management and government of the University. They shall select a President for the University as soon as possible after the organization of the Board of Regents. The President shall be executive officer for the Board of Regents and shall work under its direction. He shall recommend the plan or organization of said University and shall be responsible to said Board for the general management and success of said University.

Full, accurate and complete minutes of the Board of Regents shall be kept or maintained, which shall be open to inspection by the public at the University during regular business hours. Certified copies of any minutes shall be furnished on payment of such fee as may be assessed by the Board, not to exceed Twenty-Five Cents (25¢) per one hundred (100) words or fractional part thereof. The Board shall adopt such rules or regulations, not inconsistent with law, as may be necessary for the successful management and operation of the University.

#### General Business Powers of Board

Sec. 3. The Board of Regents has the power to sue and be sued in the name of the University of Houston. Venue shall be in either Harris County, or Travis County. The University shall be impleaded by service of citation on the President or any of its Vice-Presidents, and Legislative consent to such suits is herewith granted.

All contracts of the University shall be approved by a majority of the Board of Regents. All contracts, bonds and notes heretofore entered into or issued by or in behalf of the University of Houston are hereby ratified, confirmed and validated for and on behalf of the University hereby created. But as to such bonds and notes, such ratification, confirmation and validation shall apply subject to the provisions of and only to the extent provided in Section 8a hereof.

#### Reimbursement of Regents

Sec. 4. Members of the Board of Regents shall serve without pay, but shall be reimbursed for their actual expenses incurred in attending the work of the Board, subject to the approval of the Chairman.

#### Meetings of the Board of Regents

Sec. 5. The Board of Regents shall hold a regular meeting at the campus of the University of Houston during the month of April annually, and at such times and places as shall be scheduled by it, or as the Chairman shall call from time to time.

#### Reports by Board of Regents

Sec. 5a. The Board of Regents shall report to the Governor annually, to each Regular Session of the Legislature, at the beginning thereof, and to the Texas Commission on Higher Education, annually, the condition of the University, setting forth, in detail, the receipts and disbursements, the number of teachers and salary of each member of the faculty, the number of employees and each salary received and general statement of duties performed, the number of students, classified by grades and departments, an itemized statement of all the expenses incurred for each year,

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together with a summary of the proceedings of the Board and of the faculty.

#### Regents May Appoint and Remove Officers

Sec. 6. The Board of Regents shall have power to appoint and to remove the President, any faculty member, or other officer or employee of the University when in its judgment, the interest of the University shall require it, and it shall fix the respective salaries and duties of such officers and employees.

#### Courses and Degrees

Sec. 7. The Board of Regents shall have the authority to prescribe courses leading to customary degrees such as are offered in American universities of the first rank; provided, however, that the role and scope of the University of Houston, including its authorized departments and offerings of degree and certificate programs at the effective date of this Act, shall be subject to the determination and approval of the Texas Commission on Higher Education; and provided further, that no new department, degree program, or certificate program shall be added by the University of Houston after the effective date of this Act, except by specific prior approval by the Texas Commission on Higher Education. All work done and all courses, degrees, certificates and diplomas awarded shall conform to standard college requirements as promulgated by the accrediting associations that supervise matters of accreditation of universities and colleges in the State of Texas.

#### Tuition or registration fees

Sec. 7a (1) Unless otherwise provided in this Act, revenues of the State of Texas may not be used to finance the teaching at the University of any course requiring a baccalaureate degree as a prerequisite to credit hereafter referred to as a graduate course.

(2) The Board of Regents shall cause to be collected from students registering in the University in courses of less than graduate rank, tuition or registration fees at rates set in Section 1 of Chapter 196, Acts of the 43rd Legislature, Regular Session, 1933, as such Act was last amended by Chapter 435, Acts of the 55th Legislature, Regular Session, 1957, and the provisions of that Act as amended in 1957 shall apply to the University of Houston unless in conflict with this Act.

(3) The Board of Regents shall cause to be collected from students registering in the University in courses of graduate rank, tuition or registration fees at rates to be determined by the Board, and the revenue from such fees shall be deposited in the State Treasury in a special fund and shall be appropriated by the Legislature to finance the teaching of graduate courses at the University of Houston.

#### Transfer of Property

Sec. 8. The University of Houston, acting by and through its Board of Regents, has agreed to donate to the Board of Regents of the University herein created all of the assets, real, personal, tangible and intangible, held in its name, whether of record or not, on the first day of September, 1963, together with all of the indebtednesses against it on that date still outstanding to the extent set forth in this Act, and from such date the University of Houston created by this Act shall hold title to all properties so conveyed and shall commence operations of such properties for the use and benefit of the State of Texas.

**Indebtedness and limited liability obligations**

Sec. 8a. The indebtedness and limited liability obligations of the present University of Houston are as follows:

(1) Dormitory bonds: The remaining unpaid \$825,000.00 portion of an original dormitory bond issue in the sum of \$3,696,000.00 issued in 1949; the sum of \$2,871,000.00 of such original bond issue having already been paid and liquidated.

Such bonds are presently secured not only by the revenue from dormitory rentals, net income from book store and food service operations, but also by oil and gas royalties given to the University of Houston, and such oil royalties are to be transferred to the University of Houston created by this Act upon the effective date hereof.

It is anticipated that additional payments will be made on such bonds prior to the effective date of this Act. Such bonds being secured at the present time only by liens on the revenues and the oil royalties mentioned above, it is hereby enacted that they shall never become general obligations of the University of Houston created by this Act, but shall remain a charge upon the income tolls, fees, rent and charges encumbered and pledged to pay principal and interest thereon, as well as a lien or charge upon the oil royalties pledged in the deed of trust to support such bonds; and this Act shall not be construed to place any further or additional obligations on the University of Houston created by this Act, than is placed on the present University of Houston by Section 6 of Article 2815k of Vernon's Civil Statutes and the deed of trust securing such bonds. When such bonds have been paid and discharged in full, such oil royalties shall remain the property of the University of Houston created by this Act.

(2) The present University of Houston has outstanding an unpaid indebtedness amounting to as of January 31, 1961, the sum of \$555,000.00, secured by an oil payment given to and owned by it. This oil payment is to be transferred to the University of Houston created by this Act, and such loan is assumed only to the extent that such oil payment shall liquidate same, and no further lien or obligation other than the lien given against such oil payment is or shall be created by or under this Act; but such note or obligation may be renewed or extended from time to time as the Board may determine.

(3) The present University of Houston, on the effective date of this Act, will owe current obligations and accounts, but anticipates and pledges sufficient cash will be transferred to the University of Houston created by this Act to liquidate all of such current accounts. Such indebtedness and liabilities shall not be assumed by the University of Houston created by this Act save and except to the extent of the unencumbered cash transferred to it at that time. No other debts or liabilities of the present University of Houston (save and except those stated in this Section 8a, and only to the extent provided in this Section 8a) shall be in any manner or to any extent assumed by or become debts or liabilities of the University of Houston created by this Act.

**Donations, Gifts and Endowments**

Sec. 9. The Board of Regents is authorized to accept donations, gifts and endowments for the University to be held in trust and administered by said Board for such purposes and under such directions, limitations and provisions as may be declared in writing in the donation, gift, or endowment, not inconsistent with the laws of the State of Texas or with the objectives and proper management of said University.



**Control and Lease of Lands for Oil, Gas and  
other Mineral Developments**

Sec. 10. The Board of Regents of the University of Houston is hereby authorized and empowered to lease for oil, gas, sulphur, ore and other mineral development at public auction all lands under its exclusive control or any part thereof now controlled or owned or that may hereafter be acquired for the use of the University of Houston.

All moneys received under and by virtue of said leases shall be deposited in the State Treasury to the credit of a Special Fund which in the judgment of said Board may be invested and which principal and income may be expended for the administration of said University.

All leases made or sold hereunder shall be in the same manner set forth and in conformity with the provisions of Chapter 260, page 679, Acts 53rd Legislature, 1953, as amended and codified as Article 2613—a3,<sup>1</sup> Vernon's Civil Statutes, and as fully as though the University of Houston were named in said Article.

<sup>1</sup> So in enrolled bill.

**Borrowing Funds for Construction and Equipment of  
Buildings, Assessing and Pledging Fees.**

Sec. 11. The Board of Regents of the University of Houston is hereby authorized and empowered without cost to the State of Texas to construct or acquire through funds or loans obtained from the United States of America, or any agency thereof, or any other source, public or private, and accept title thereto subject to such conditions and limitations as may be prescribed by said Board, including, but not limited to class room buildings, dormitories, kitchens and dining halls, hospitals, libraries, student activity buildings, gymnasias, athletic buildings and stadia, and such other buildings and facilities as may be needed for the good of the University of Houston and the moral welfare and social conduct of its students, when the total cost, type of construction, capacity of the buildings, plans and specifications have been approved by the Board.

Provided further, that the Board is authorized to fix fees and charges against the students for the use of the buildings and facilities erected under the authorization of this Section so long as indebtedness remains against such buildings and their equipment, and to pledge the revenues from such fees and charges for the payment of the costs of construction and equipment of such buildings.

**Management of Dormitories and other Facilities**

Sec. 12. The Board of Regents is authorized to fix fees, rentals and charges for the use of the dormitories, auditoriums, dining halls, buildings and all other facilities of the University of Houston, and shall make rules and regulations to assure the maximum occupancy and use thereof. The charges made and fees fixed against students and others using any such facilities shall be in amounts deemed by the Board to be reasonable, taking into consideration the cost of providing such facilities and services, the use to be made thereof, and the advantages to be derived therefrom.

**Charges for Services to the Public**

Sec. 13. A schedule of minimum fees and charges shall be established by the Board of Regents for services performed by any department of the University of Houston for students and the public. Said schedule shall

conform to the fees and charges customarily made for such services in the community. By way of example, but not as a limitation, are services of the hearing clinic, optometry clinic, reading clinic, data processing and computing center, etc. Any and all fees and compensation that may be derived therefrom shall be reported to the Governor and to the Texas Commission on Higher Education, annually, and to each Regular Session of the Legislature at the beginning thereof, and to the Board of Regents, as may be required by it, including a brief statement of the use made of such facilities, and of the firm, society, organization or association that use such facilities, to be included in each report herein required.

#### Contracts for Military Training

Sec. 14. The Board of Regents is empowered to contract with the Department of Defense of the United States of America to establish and maintain courses of military training as a part of its curriculum, with the work of students enrolling in such courses being credited toward degree requirements under such regulations as the Board of Regents may prescribe. Included within its power to contract is the power to lease armory lands and buildings from and to the United States of America, and to acquire such equipment and material as is necessary to accomplish the purposes of such courses, and to enter into insurance contracts for the protection of the Federal Government's rights in and to such properties.

No student of the University shall ever be required to take any portion of such military training as a condition for entrance into the University or for graduation therefrom.

#### Applicability of General Laws

Sec. 15. From and after the operative date of this Act, the University of Houston herein created shall be subject to the obligations and entitled to the benefits of all General Laws of Texas applicable to all other state institutions of higher learning, except where such General Laws are in conflict with this Act, and in such instances of conflict this Act shall prevail only to the extent of such conflict. Acts 1961, 57th Leg., p. 811, ch. 370.

Effective Sept. 1, 1961.

Agricultural and Mechanical College,  
lease of lands for oil, see art. 2613a-3.

### CHAPTER FOUR B—MIDWESTERN UNIVERSITY AT WICHITA FALLS [NEW]

Art.  
2623c-8. Issuance of revenue bonds and  
notes [New].

#### Art. 2623c-8. Issuance of revenue bonds and notes

Section 1. The Board of Regents of Midwestern University, as created by Chapter 147, Acts 1959, 56th Legislature, Regular Session, is hereby authorized to issue revenue bonds and notes under and pursuant to Chapter 368, Acts of the 54th Legislature, Regular Session, as amended, (Vernon's, Article 2909c, as amended), it being the intent hereof that said Board of Regents shall have all of the powers and authority set forth in said Article 2909c, as amended, the same as if the Board of Regents of Midwestern University were specifically listed and set forth in Section 1 of said Article 2909c, as amended, along with the other state-supported

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universities and colleges; except and provided further, that the Board of Regents of Midwestern University shall, in addition thereto, and notwithstanding any language in said Article 2909c, as amended, to the contrary, also be authorized to fix, charge, collect and pledge to the payment of the principal of and interest on any such bonds or notes use fees from students and others for the use of any kind or type of building, structure, facility or property of said University, except classrooms; and such use fees may be in such amounts as may be deemed reasonable by said Board of Regents. Acts 1961, 57th Leg., p. 457, ch. 228.

Emergency. Effective May 25, 1961.

Construction, acquisition, improvement and equipment of buildings by certain colleges and universities, see art. 2909c.

#### CHAPTER SIX—TEXAS TECHNOLOGICAL COLLEGE

Art.  
2632f. Conveyance of easement to City of Lubbock for emergency telephones [New].

Art. 2632f. Conveyance of easement to City of Lubbock for emergency telephones

Section 1. In consideration of the benefits derived from and accruing to the State of Texas and Texas Technological College from the installation, construction, reconstruction, operation, maintenance and repair of a fire alarm signal system to be installed, constructed, reconstructed, operated and maintained to promote the welfare and safety of the inhabitants of the State of Texas, using the facilities of Texas Technological College and to further preserve said facilities, the Chairman of the Board of Directors of Texas Technological College is hereby authorized and directed to execute and deliver on behalf of the State of Texas and Texas Technological College, to the City of Lubbock, a municipal corporation of Lubbock County, Texas, a proper instrument conveying to said City of Lubbock an easement with right of ingress and egress to install; construct, reconstruct, operate and maintain five emergency telephones, with red lights, at strategic points and locations on the campus as may be determined by the Board of Directors of Texas Technological College. The Chairman of the Board of Directors of Texas Technological College is hereby authorized and directed, for and on behalf of said Board of Directors, to execute and deliver such conveyance to carry out the purpose of this Act to the City of Lubbock, Lubbock County, Texas: Acts 1961, 57th Leg., p. 443, ch. 216.

Effective 90 days after May 29, 1961, date of adjournment.

#### CHAPTER EIGHT—UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE FOR NEGROES

Art.	Art.
2643d—1. Acquisition of land for campus expansion [New].	2643g—1. Buildings and improvements; Texas Southern University [New].

Art. 2643d—1. Acquisition of land for campus expansion

The Board of Directors of Texas Southern University for and on behalf of Texas Southern University, Houston, Texas, is hereby authorized to

acquire by purchase, exchange or otherwise any tract or parcel of land in Harris County, Texas, contiguous and/or adjacent to the campus of Texas Southern University of Houston, when such lands are deemed necessary for campus expansion by the Board of Directors of Texas Southern University. Acts 1961, 57th Leg., p. 938, ch. 413, § 1.

Emergency. Effective June 17, 1961.

Art. 2643g—1. Buildings and improvements; Texas Southern University

Application of act; legislative findings

Section 1. This Act shall apply to Texas Southern University, Houston, Texas, (hereinafter referred to as the "University"). The Legislature hereby finds and declares that this Act is necessary to eliminate the disadvantage to said University occasioned by its exclusion from the benefits of the state tax provided by Section 17 of Article VII, Constitution of Texas, prior to its amendment in 1956, to finance buildings and other permanent improvements at state institutions of higher learning.

Building use fees in lieu of tuition fees

Sec. 2. The governing board of the University is hereby authorized for a period of six (6) years commencing September 1, 1961, to discontinue the charging and collection of:

- (a) The first Fifty Dollars (\$50.00) of tuition fees from resident students; and
- (b) The first Two Hundred Dollars (200.00) of tuition fees from non-resident students;

and, in lieu thereof, is hereby authorized to charge and collect from students using the hereinafter described buildings, special building-use fees for the use of libraries, hospitals, vocational shop buildings, laboratories, and other buildings for extracurricular activities or special purposes in the amounts set out below:

Full time resident students per semester .....	\$ 50.00
Part time resident students as follows:	
11 semester hours .....	47.00
10 semester hours .....	43.00
9 semester hours .....	39.00
8 semester hours .....	35.00
7 semester hours .....	31.00
6 semester hours .....	27.00
5 semester hours .....	23.00
4 semester hours .....	19.00
3 or less semester hours .....	15.00
Full time students who are not residents of the State of Texas per semester .....	200.00
Part time nonresident students as follows:	
11 semester hours .....	183.50
10 semester hours .....	167.00
9 semester hours .....	150.50
8 semester hours .....	134.00
7 semester hours .....	117.50
6 semester hours .....	101.00
5 semester hours .....	84.50
4 semester hours .....	68.00
3 or less semester hours .....	51.50

**Bonds, warrants and notes**

Sec. 3. The governing board of the University is authorized to pledge the anticipated income from such fees to secure bonds, warrants, or notes issued for the purpose of acquiring, constructing, repairing, and equipping buildings and other permanent improvements and purchasing the necessary sites therefor, and the governing board is hereby granted the authority and power to issue bonds, warrants, and notes for such purposes. Such bonds, warrants, or notes shall be issued in such amount or amounts and at such time or times after the effective date of this Act as may be determined by the governing board of the University; shall bear interest at a rate or rates not to exceed six percent (6%) per annum, and shall mature serially or otherwise not later than six (6) years from the first day of September, 1961; provided that the authority to issue such bonds, warrants, and notes under this Section is expressly limited to a period of six (6) years from September 1, 1961. All bonds issued hereunder shall be examined and approved by the Attorney General of the State of Texas, and when so approved shall be incontestable; and all approved bonds shall be registered in the office of the Comptroller of Public Accounts of the State of Texas. Said bonds shall be sold upon such terms and conditions as the governing board of the University shall determine; provided that they shall never be sold for less than their par value and accrued interest. It is provided that any indebtedness hereby authorized shall be payable only from the revenues derived from the use fees herein authorized, and shall never become a charge against the State of Texas nor any moneys appropriated by the Legislature from the General Fund.

**Unobligated balances in special funds**

Sec. 4. Subject to prior contractual pledges in favor of such bonds, warrants, or notes, the governing body of the University may utilize any remaining unobligated balance in said special funds for the purpose of acquiring, constructing, repairing, and equipping buildings and other permanent improvements and purchasing the necessary sites therefor.

**Payment or retirement of bonds or warrants**

Sec. 5. So long as any bonds, warrants, or notes issued pursuant to the provisions of this Act remain outstanding and unpaid, the building-use fees authorized hereunder shall never be less than the amounts set forth in Section 2 hereof; and if at the end of the six (6) year period any obligations or indebtedness incurred or issued under the provisions of this Act remain outstanding and unpaid, either as to principal or interest, or both, and funds are not then on hand to retire all such principal and interest, the governing board shall continue to charge and collect the building-use fees authorized by this Act each year until said obligations or indebtedness shall have been retired in whole or until funds are on hand to retire the same in full; and during such time the first Fifty Dollars (\$50.00) resident tuition fees and the first Two Hundred Dollars (\$200.00) nonresident tuition fees, as provided in Section 2 hereof, shall be discontinued.

**Contracts in connection with issuance of bonds or warrants**

Sec. 6. The governing board of the University shall be authorized to enter into contracts and agreements in connection with the issuance of said bonds, warrants, or notes upon such terms and conditions as such governing board shall deem to be advantageous to the University, so long

as the terms and provisions of such contracts and agreements are not in conflict with the provisions of this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided that the proceedings authorizing the issuance of such bonds, warrants, or notes may contain provisions relating to the flow of funds, covenants with respect to the interest and sinking fund, reserve funds, contingencies funds, and such other funds as may be established in such proceedings, and may contain provisions relating to, governing, or restricting the incurring or issuance of additional obligations under the provisions of this Act.

#### Additional fees

Sec. 7. Nothing in this Act shall be interpreted to prevent the University or the governing board thereof from electing to charge additional building fees or building-use fees as are now authorized or shall be authorized to be charged by the University and by the other state-supported colleges or universities of Texas.

#### Increase in fees

Sec. 8. In the event that at any time during the six (6) year period herein defined or during the time that any indebtedness incurred under this Act remains outstanding, tuition fees in the state-supported colleges and universities of Texas are increased over the amounts of such fees as are established for such colleges and universities as of the effective date of this Act, the governing board of the University will be authorized to charge and collect the full amounts of such fees as so increased less the first Fifty Dollars (\$50.00) resident tuition fees and the first Two Hundred Dollars (\$200.00) nonresident tuition fees.

#### Law cumulative; exclusiveness

Sec. 9. This Act shall be cumulative of other Statutes and shall not repeal any existing Statutes; provided, that the issuance of bonds, warrants, or notes provided for in this Act shall be governed by the provisions of this Act which shall be exclusive, and the provisions of other laws relating to the issuance of bonds, warrants, or notes, or the collection or pledge of building-use fees, shall have no application to the issuance of bonds, warrants, or notes as herein provided.

#### Refunding bonds or warrants

Sec. 10. The governing board of the University shall be authorized to issue refunding bonds, warrants, or notes for the purpose of refunding indebtedness or obligations incurred or issued hereunder, but such refunding bonds, warrants, or notes (except as provided in the sentence immediately following this sentence) shall not be made to mature beyond the six (6) year period herein defined. If, however, at the end of such six (6) year period, any obligations or indebtedness incurred or issued under the provisions of this Act remain outstanding and unpaid, either as to principal or interest, or both, and funds are not then on hand to retire all such principal and interest, then the governing body may issue refunding bonds, warrants, or notes to refund such outstanding obligations or indebtedness, to mature in not more than one (1) year from the date of such refunding bonds, warrants, or notes; and refunding bonds, warrants, or notes may similarly be refunded from year to year until funds are on hand to retire all outstanding obligations or indebtedness both as to principal and interest. All refunding bonds shall be approved by the Attorney General and registered by the Comptroller as in the case of and with like effect as original bonds.

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#### Partial invalidity

Sec. 11. If any word, phrase, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

#### Appropriations

Sec. 12. During the six (6) year period, as defined by this Act, the Legislature of the State of Texas shall make no appropriation out of state funds for acquiring or constructing buildings or other permanent improvements at the University, except in case of loss or losses caused by fire, flood, storm, earthquake, or other act of God occurring at the University, in which case an appropriation or appropriations in the amount or amounts sufficient to replace the loss or losses so incurred may be made by the Legislature out of state funds. Acts 1961, 57th Leg., p. 941, ch. 415.

Emergency. Effective Sept. 1, 1961.

### CHAPTER NINE—STATE TEACHERS' COLLEGES

#### 1. GENERAL PROVISIONS

Art. 2647i. East Texas State College; union center building; student fees [New].

#### 3. NORTH TEXAS STATE UNIVERSITY

Art. 2651b. North Texas State University; references and appropriations [New].

#### 1. GENERAL PROVISIONS

Art. 2647i. East Texas State College; union center building; student fees

Section 1. The Board of Regents of the State Teachers Colleges of Texas, acting for East Texas State College, is hereby authorized to levy a regular fixed student fee not to exceed Eleven Dollars (\$11.) per student for each semester of the long session and not to exceed Five Dollars and fifty cents (\$5.50) per student for each term of the summer school, or any fractional part thereof, as may in their discretion be just and necessary for the sole purpose of financing, constructing, operating, maintaining, and improving the Union Center Building; provided, however, that the amount of this fee may be changed at any time within the limits hereinabove fixed, in order that sufficient funds to support the Union Center Building may be raised; and providing further, that any increase in the fee is initially approved by a majority vote of those students participating in a general election to be called and held for that purpose. The fees herein authorized to be levied should be in addition to any Use Fee and Service Fee now or hereafter levied in accordance with law. No state funds may be expended for use of the Union Center Building.

Sec. 2. The Business Manager of the East Texas State College shall collect said fees provided for in Section 1 hereof and shall credit the money received from the said fees to an account known as the Union Center Building Account.

Sec. 3. The money thus collected and placed in said Union Center Building Account shall be used for the purpose of financing, constructing, operating, maintaining and improving the Union Center Building and

shall be placed under the control of and subject to the order of the Board of Directors of the Union Center Building, which Board of Directors shall annually submit a complete itemized budget to be accompanied by a full and complete report of all activities conducted during the year and all expenditures made incident thereto. The Board of Regents of the State Teachers Colleges of Texas shall make such changes in the budget as it deems necessary before approving the same, and shall then levy the student fees under the provisions of Section 1 in such amount as will be sufficient to meet the budgetary needs of the Union Center Building, within the statutory limits herein fixed.

Sec. 4. This fee will be collectible beginning September 1, 1962. Acts 1961, 57th Leg., p. 174, ch. 91.

Effective 90 days after May 29, 1961, date of adjournment.

#### NORTH TEXAS STATE UNIVERSITY

##### Art. 2651a. Change of name; control and management

Section 1. The purpose of this Act is to change the name of the co-educational institution of higher learning established in the City of Denton, Denton County, now known as the North Texas State College, which established institution shall hereafter be known as North Texas State University, and to provide that said University as newly named shall be conducted, operated and maintained under the general direction and supervision of a new and separate Board of Regents as herein provided. As amended Acts 1961, 57th Leg., p. 210, ch. 108, § 1.

Effective 90 days after May 29, 1961, date of adjournment. Sections 2 and 3 of the amendatory Act of 1961 are set out as art. 2651b.

##### Art. 2651b. North Texas State University; references and appropriations

Sec. 2. Wherever the name "North Texas State Teachers College," or the name "North Texas State College," or any reference to either appear in any Acts of any Legislature of this State, such name and such reference shall hereafter mean and apply to North Texas State University, in order to conform to the new name of said University as provided in Section 1<sup>1</sup> hereof.

Sec. 3. That all legislative Acts and appropriations heretofore passed either in or by reference to North Texas State Teachers College or to North Texas State College, or to North Texas State University are in all things ratified and confirmed in behalf of North Texas State University. Acts 1961, 57th Leg., p. 210, ch. 108.

<sup>1</sup> Article 2651a, § 1.

Effective 90 days after May 29, 1961, date of adjournment. Section 1 of this Act amends art. 2651a, § 1.

#### CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

##### Art. 2654c. Tuition rates in State institutions of collegiate rank

Section 1. (a) The Governing Boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury shall cause to be collected from students register-



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ing in the said schools, tuition or registration fees at the rates hereinafter prescribed.

Item No.	Type of Student	Rate
1.	Resident student registered for twelve (12) or more semester credit hours of work per semester of four and one-half (4½) months .....	\$ 50
2.	Resident student registered for twelve (12) or more term hours of work per term of three (3) months .....	30
3.	Nonresident student registered for twelve (12) or more semester credit hours of work per semester of four and one-half (4½) months .....	125-200
4.	Nonresident student registered for twelve (12) or more term hours of work per term of three (3) months .....	150
5.	Resident or nonresident student registered for less than twelve (12) semester credit hours of work, shall pay a sum proportionately less than herein prescribed therefor but not less than .....	15
6.	Resident or nonresident student registered for less than twelve (12) term hours of work, shall pay a sum proportionately less than herein prescribed therefor but not less than .....	10
7.	Resident student registered for a summer session of twelve (12) weeks .....	50
8.	Nonresident student registered for a summer session of twelve (12) weeks .....	125-200
9.	Resident or nonresident student registered for less than a full semester credit hour or term hour load in a summer session shall pay a sum proportionately less than herein prescribed therefor but not less than .....	10
10.	Resident student registered in a Medical or Dental Branch, School or College, per semester or its equivalent .....	150-200
11.	Nonresident student registered in a Medical or Dental Branch, School or College, per semester or its equivalent .....	300-400
12.	Resident or nonresident students registered for a course or courses in art, architecture, drama, speech or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee in addition to the regular tuition, said fee to be designated by the Governing Board of such institution; but in no event shall such fees be more per course per semester of four and one-half (4½) months, or per summer session, than .....	75

(b) The Governing Boards of the several state-supported institutions are hereby authorized and directed to have reserved and set apart in a separate account on the books of the respective institutions, out of the fees levied and collected from students under Subsection (a), Section 1 of this Act, an amount to be determined by the Legislature for each institution in the biennial Appropriation Bill, for the purpose of creating a special fund to be used in awarding Tuition Scholarships to needy resident students enrolled in such respective institutions. Tuition Scholarships shall be awarded to students with the approval of the President or other administrative heads of each such respective institution in accordance with such rules and regulations governing the award of such Tuition Scholar-

ships as may be promulgated by the Governing Boards of said respective institutions. Rules and regulations shall be subject to the following conditions:

(1) Eligibility shall be based primarily on financial need. In determining need, consideration should be given to the student's own efforts to finance his education as evidenced by part-time jobs, loans from private sources or financial capacity of the parents.

(2) Awards shall be based on character and satisfactory scholastic record.

(3) Recipients of such Tuition Scholarships must be classified as "resident students" under the provisions of this Act.

(4) Tuition Scholarships shall be awarded in an amount of Twenty-five Dollars (\$25) per semester or Fifty Dollars (\$50) per long session for each student. The amount of such awards shall be credited to said student as partial payment of his tuition fees; provided that students otherwise entitled to a refund shall receive such refund based only on that portion of the tuition actually paid by the student.

(5) Tuition Scholarships shall be awarded in an amount not to exceed One Hundred and Twenty-five Dollars (\$125) per semester or Two Hundred and Fifty Dollars (\$250) per long session for each full-time medical or dental student. The amount of such awards shall be credited to said student as partial payment of his tuition fees; provided that students otherwise entitled to a refund of tuition shall receive such refund based only on that portion of the tuition actually paid by the student.

(6) Not later than thirty (30) days after the close of each fiscal year, each institution shall transfer any unused balances in the fund set up for scholarship awards to the tuition income account from which the scholarship fund was established.

(c) The Governing Boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury shall cause to be collected from each nonresident student registered for twelve (12) or more semester credit hours of work per semester of four and one-half (4½) months, or for a summer session of twelve (12) weeks, tuition or registration fees as follows: for the year beginning on September 1, 1957, a fee of not less than One Hundred and Twenty-five Dollars (\$125) or more than Two Hundred Dollars (\$200), such fee to be not less than Fifty Dollars (\$50) greater than the fee in effect for nonresident students at the beginning of the preceding year; for the year beginning on September 1, 1958, a fee not less than One Hundred and Seventy-five Dollars (\$175) or more than Two Hundred Dollars (\$200), providing that no tuition rate shall be reduced thereby; and for the year beginning on September 1, 1959, and thereafter, a fee of not less than Two Hundred Dollars (\$200).

(d) Any nonresident tuition may, within the discretion of the institution, be charged to the United States Government for veterans enrolled under the provisions of any Federal Law and regulations authorizing educational or training benefits for veterans.

(e) The term "residence" as used in this Act means "domicile"; the term "resided in" means "domiciled in"; provided, the Governing Board of each institution required under this Act to charge a nonresident registration fee is hereby authorized and directed to follow such rules, regulations, and interpretations as are issued by the Commission on Higher Education for the effective and uniform administration of the nonresident tuition provisions of this Act. Any such rules, regulations, and interpretations

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as may be issued by said Commission shall also be furnished to the presidents or executive heads of public junior colleges in this state. For the purposes of this Act, the status of a student as a "resident," or "nonresident" student, is to be determined as follows:

(1) A nonresident student is hereby defined to be a student of less than twenty-one (21) years of age, living away from his family and whose family resides in another state, or whose family has not resided in Texas for the twelve (12) months immediately preceding the date of registration; or a student of twenty-one (21) years of age or over who resides out of the state or who has not been a resident of the state twelve (12) months immediately preceding the date of registration.

(2) Individuals twenty-one (21) years of age or over who have come from without the state and who are gainfully employed within the state for a period of twelve (12) months prior to registering in an educational institution shall be classified as "resident students" as long as they continue to maintain such legal residence in the state.

(3) Individuals twenty-one (21) year of age or over who have come from without the state and who register in an educational institution prior to having resided in the state for a period of twelve (12) months shall be classified as "nonresident students," and such "nonresident student" classification shall be presumed to be correct as long as the residence of such individual in the state is primarily for the purpose of attendance at educational institutions; provided, however, that a "nonresident" student may be reclassified as a "resident student" upon representation of conclusive evidence that he has in fact been a legal resident of Texas for at least twelve (12) months immediately preceding such reclassification. Any such individual so reclassified as a "resident student" shall be entitled to pay the tuition fee for a resident of Texas at any subsequent registration for as long as he continues to maintain his legal residence in Texas. It is further provided, that the provisions of this paragraph relating to nonresident student registration fees shall not apply to junior colleges located immediately adjacent to state boundary lines, which institutions shall collect from each nonresident student who registers for twelve (12) or more semester or term hours of work an amount equivalent to the amount charged students from Texas by similar schools in the state of which the said nonresident student shall be a resident.

(4) Individuals of twenty-one (21) years of age or less whose families have not resided in Texas for the twelve (12) months immediately preceding the date of registration, shall be classified as "nonresident students" regardless of whether such individuals have become the legal wards of residents of Texas or have been adopted by residents of Texas while such individuals are attending educational institutions in Texas or within a year prior to such an attendance or under circumstances indicating that such guardianship or adoption was for the purpose of obtaining status as a "resident student."

(f) All aliens shall be classified as "nonresident students"; provided, however, that an alien who is living in this country under a visa permitting permanent residence or who has filed a Declaration of Intention to become a citizen with the proper federal immigration authorities shall have the same privilege of qualifying for resident status for fee purposes under this Act as has a citizen of the United States. Provided, however, that a resident alien residing in a junior college district located immediately adjacent to state boundary lines shall be charged the resident tuition by such junior college.

(g) The Governing Boards of the several state-supported institutions of higher learning are hereby authorized to assess and collect from each nonresident student failing to comply with the rules and regulations of the Governing Boards concerning nonresident fees, a penalty not to exceed Ten Dollars (\$10) a semester.

(h) Officers, enlisted men and women, selectees or draftees of the Army, Army Reserve, National Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, or Marine Corps of the United States, who are stationed in Texas by assignment to duty within the borders of this state, shall be permitted to register themselves, their husband or wife as the case may be, and their children, in state institutions of higher learning by paying the regular tuition fees and other fees or charges provided for regular residents of the State of Texas, without regard to the length of time such officers, enlisted men or women, selectees or draftees have been stationed on active duty within the state.

(i) The Board of Regents of The University of Texas is hereby authorized to fix a uniform tuition fee for all medical and dental students who are pursuing courses leading to the M. D. and D. D. S. degrees in the Medical and Dental Schools of The University of Texas not to exceed Two Hundred Dollars (\$200) for each semester. Provided, however, that the Board may not increase the tuition fee of medical and dental students more than Fifty Dollars (\$50) per semester over the preceding semester fee until the maximum tuition fee is reached. For all students registered in the Medical and Dental Schools of The University of Texas in programs other than those leading to the M. D. and D. D. S. degrees the Board of Regents of The University of Texas is authorized to charge the same tuition in effect at the Main University of The University of Texas.

(j) The foregoing provisions requiring the Governing Boards to collect tuition shall not be interpreted as depriving the Boards of the right to collect such special fees as they are authorized by law to collect; provided, however, that laboratory fees or charges shall only cover actual materials and supplies used by the student. As amended Acts 1953, 53rd Leg., p. 866, ch. 351, § 1; Acts 1957, 55th Leg., p. 1297, ch. 435, § 1; Acts 1961, 57th Leg., p. 999, ch. 436, § 1

Effective 90 days after May 29, 1961, date of adjournment.

## CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Art.

2654—3b. Annual Budget for Central Education Agency [New].

### Article 2654—1. Central Education Agency

County-wide day schools for the deaf, see art. 3222b.

### Art. 2654—1a. Special program for preschool children with hearing loss

County-wide day schools for the deaf, see art. 3222b.

### Art. 2654—3b. Annual Budget for Central Education Agency

Section 1. The State Board of Education, in addition to its responsibility for the management and government of the Texas Central Education Agency, annually shall adopt a budget for the operation of the Agen-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

cy. This budget shall provide funds for the purpose of paying the cost of administrative and operating expenses of such agency or any other necessary expense. Such budget shall be in accordance with the amounts appropriated by the General Appropriation Act and subject to the provisions of that Act.

Sec. 2. Provision shall be made in the operating budget for the payment of any items of expense from Federal and special funds when such items of expense in whole or in part are eligible to be paid from Federal and special funds.

Sec. 3. Funds for the payment of items budgeted that are not eligible to be paid from Federal or special funds shall be paid from the Foundation School Fund. The State Board of Education is authorized to budget annually from the Foundation School Fund for the operation of the Texas Central Education Agency an amount not to exceed four-tenths ( $\frac{4}{10}$ ) of one per cent (1%) of the total cost of the Foundation School Program as estimated for purposes of the Foundation School Program Act by the State Board of Education at the March meeting of the Board immediately prior to the adoption of the budget at the July meeting. The cost of operating the Texas Central Education Agency which is paid from Foundation School Funds shall be included in the estimated cost of the Foundation School Program which is made by the State Board of Education in March of each year for purposes of determining the local fund assignment to be charged to each school district. Provided, however, for the 1961-62 fiscal year the estimate made in March, 1961, shall apply and the State Board of Education shall adopt an operating budget as soon as practicable after the General Appropriation Act is adopted.

Sec. 4. On or before August 15th, of each year, a copy of the approved operating budget for the Texas Central Education Agency showing total funds budgeted by source of funds shall be filed with the State Comptroller of Public Accounts. Vouchers submitted by the Commissioner of Education shall be paid from the appropriate fund.

Sec. 5. The State Board of Education shall be responsible for maintaining State programs and activities designed to bring about improvement in the public schools. In discharging this responsibility, the Board is authorized to enter into contracts for grants from both public and private organizations and to expend such funds for the specific purposes and in accordance with the terms of the contract with the contracting agency. Acts 1961, 57th Leg., p. 1052, ch. 468.

Emergency. Effective June 16, 1961.

Powers and duties of state board, see art. 2675b-5.

## CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

### 2. STATE BOARD

Art.

2668a. Denton State School Independent School District [New].

### 2. STATE BOARD

Art. 2668a. Denton State School Independent School District

Section 1. There is hereby created the Denton State School Independent School District. The territorial limits of the Independent School

District created shall be coextensive with the territorial boundaries of the Denton State School.

Sec. 2. The Board for Texas State Hospitals and Special Schools shall be ex-officio trustees of the district so created. Upon the effective date of this Act said trustees shall take and certify the census of the children within the scholastic age in the district, and funds shall thereafter be apportioned to such district accordingly. Acts 1961, 57th Leg., p. 113, ch. 60.

Emergency. Effective March 30, 1961.

Abolishment of school districts created at eleemosynary institutions, see art. 2756c.

Title of Act:

An Act creating the Denton State School Independent School District; providing for its territorial limits; providing for trustees; providing for taking census and certifying scholastics; and declaring an emergency. Acts 1961, 57th Leg., p. 113, ch. 60.

Art. 2669. 2736 Investing school fund

(a) The State Board of Education is authorized and empowered to invest the permanent public free school funds of the state in bonds of the United States, the State of Texas, or any county thereof, and the independent or common school districts, road precincts, drainage, irrigation, navigation and levee districts in this state, and the bonds of incorporated cities and towns, and the obligations and pledges of The University of Texas, and corporate bonds of United States corporations of at least "A" rating.

(b) The State Board of Education is further authorized and empowered to invest the permanent public free school funds of the state in such corporation bonds, preferred stocks and common stocks as the State Board of Education may deem to be proper investments for said fund. In making each and all of such investments said Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that at least \$400,000,000 of the Permanent School Fund shall always be invested in such securities as are designated in Subsection (a) above and provided further, that not more than fifty per cent (50%) of said fund shall be invested at any given time in corporate stocks and bonds, nor shall more than one per cent (1%) of said fund be invested in securities issued by one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

(c) Corporation securities of the State Permanent School Fund may, at the discretion of the State Board of Education, be sold and the proceeds reinvested for the Permanent School Fund under the terms of this Act.

(d) Notwithstanding any other law, or any other provision of this Act, each of the funds may be invested by the Board in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended

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from time to time,<sup>1</sup> or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States Government or any agency thereof. As amended Acts 1961, 57th Leg., p. 886, ch. 389, § 1.

<sup>1</sup> 12 U.S.C.A. § 1701 et seq.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 2673. 2740 Option to purchase

Whenever any independent or common school district of this state issues any bonds, obligations, or pledges, or issues any refunding bonds in lieu of outstanding bonds which are held for the account of the State Permanent School Fund which may be redeemed before maturity and which have been called for redemption, and whenever such bonds, obligations or pledges have been approved by the Attorney General, as required by the preceding Articles, the president of the board of trustees of the school district, or the county judge or party authorized by law to sell such bonds, obligations, or pledges, shall notify the State Board of Education of all bids received for such bonds, obligations, or pledges, and shall give said Board an option of ten (10) days in which to purchase same; provided, that said Board will pay the price offered therefor by the best bona fide bidder; and if the said Board fails to purchase said bonds, obligations, or pledges within said time, then such president or county judge shall sell the same to the best bona fide bidder. If the State Board shall pay a premium out of the Permanent School Fund on any bonds, obligations, or pledges purchased as an investment for the Permanent School Fund, then the principal of such bonds, obligations, or pledges and an amount of the interest first accruing thereon equal to the premium so paid, shall be treated as the principal in such investment, and when such first interest is collected, such sum of the same shall be returned to the Permanent School Fund, and if they purchase said bonds, obligations, or pledges for less than par, the discount they received in the purchase thereof shall be paid to the Available School Fund when the said bonds, obligations, or pledges are paid off and discharged. If the said Board shall refuse or shall have refused to purchase all or any part of such bonds, obligations, and pledges from such district, or from the parties to whom the same were issued, the State Board of Education may nevertheless thereafter purchase such bonds, obligations, and pledges, subject to the same restrictions provided by law governing the purchase of such obligations by the State Board of Education from the issuing Agency; and when so purchased such obligations shall be subject to all rights and powers provided by law governing the same when purchased by the State Board of Education from the issuing Agency. As amended Acts 1954, 53rd Leg., 1st C.S., p. 28, ch. 11, § 3; Acts 1961, 57th Leg., p. 886, ch. 389, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 2675—1. Acceptance of funds from Congress for vocational rehabilitation

Sec. 3. The Vocational Rehabilitation Division of the Texas Education Agency is designated and authorized to provide for the rehabilitation of severely physically disabled Texas citizens, excepting those who are blind as defined by House Bill No. 347, Regular Session, 49th Legislature, 1945, Section 1(f),<sup>1</sup> and further that nothing herein contained would affect or repeal the present crippled children's restoration service as authorized by Article 4419c and administered by the Crippled Children's

Division of the State Department of Health. Added Acts 1961, 57th Leg., p. 214, ch. 112, § 1.

<sup>1</sup> Art. 3207c, § 1(f).

Emergency. Effective May 10, 1961.

Physical restoration of crippled children,  
see art. 2675j.

### CHAPTER ELEVEN—COUNTY SCHOOLS

Art.  
2688d. Certain counties of not more than 4 school districts; office abolished; county judge to perform duties [New].

Art.  
2688e. County-wide elections; petition; abolition of office; transfer of duties [New].

2688f. Counties of 64,800 to 69,000; abolition of office; transfer of duties [New].

Art. 2688c. Repealed. Acts 1961, 57th Leg., p. 1136, ch. 514, § 3. Eff. 90 days after May 29, 1961, date of adjournment

Savings clause, see art. 2688e, note.

Prior to repeal, art. 2688c was amended by Acts 1951, 52nd Leg., p. 337, ch. 203, § 1; Acts 1953, 53rd Leg., p. 793, ch. 322, § 2; Acts 1957, 55th Leg., 1st C.S., p. 5, ch. 6, § 1; Acts 1961, 57th Leg., p. 260, ch. 136, § 1. See art. 2688f.

Acts 1961, 57th Leg., p. 1136, ch. 514, § 3, repeals article 2688c "as last amended by Chapter 6, Acts of the Fifty-fifth Legislature, First Called Session, 1957". Actually article 2688c was last amended by Acts 1961, 57th Leg., p. 260, ch. 136, § 1. as last amended the article provided:

"Section 1. From and after the effective date of this Act the duties now performed by County Superintendents in all counties in this State having a population of not less than forty-five thousand (45,000) and not more than forty-five thousand, five hundred (45,500), according to the last preceding Federal Census, and in which there are no Common School Districts, shall be performed by the County Judges of such counties, and the office of County Superintendent as such, shall cease to exist; provided, however, that the County Superintendents in such counties who have been heretofore elected to the office of County Superintendent shall serve until the expiration of the time for which they were elected, and that thereafter the duties now performed by County Superintendents in such counties shall be performed by the County Judges of such counties.

"Sec. 2. In counties coming under the provisions of this Act, the County Judge

shall receive and retain for his services in performing the duties of County Superintendent of public instruction, in addition to all other compensation provided by law, such salary as the county board of school trustees of the respective counties may provide subject to the provisions of Articles 2701 and 3888, Revised Civil Statutes, 1925, as amended, whether the County Judge is compensated on a fee or salary basis by the county. Such salary shall be paid in the manner and from funds so provided by law for the payment of ex officio County Superintendents. In the same manner and extent, and from the same funds, as provided in Articles 2701 and 3888, Revised Civil Statutes, 1925, as amended, the county board of school trustees in the respective counties may appoint an assistant to the ex officio County Superintendent, provide for his salary, and provide for the office and traveling expenses for the office of the ex officio County Superintendent. And the County Judge, acting as County Superintendent, shall perform all the duties in such counties as are by law to be performed by County Superintendents, it being the purpose of this Act to abolish, at the expiration of the term of office for which County Superintendents were elected in such counties, the office of County School Superintendent, and to place such duties with the County Judges of such counties.

"Sec. 3. All compensation allowed County Judges hereunder shall not be counted as fees of office and this Act shall be cumulative of all existing laws relating to compensation of County Judges."

Art. 2688d. Certain counties of not more than 4 school districts; office abolished; county judge to perform duties

Section 1. In all counties of the State where, according to the preceding annual statistical report of the schools said county has not more than four (4) school districts, with one (1) of such districts comprising



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more than half of the county and having more than two thousand (2,000) pupils in average daily attendance in the one (1) district alone, and such district having an assessed valuation of more than Twenty Million Dollars (\$20,000,000) and where there is only one (1) common school district in such county with an average daily attendance of less than sixteen (16), the office of county superintendent is hereby abolished, to be effective at the end of the term of the incumbent county superintendent, as is now provided by law.

Sec. 2. Any duties that may still be required by law of the office of county superintendent of such counties that may come under Section 1 of this Act shall be performed by the county judge of said county as is now provided by law. (Articles 2701 and 3888, Revised Civil Statutes). Acts 1961, 57th Leg., p. 313, ch. 164.

Effective 90 days after May 29, 1961, date of adjournment.

Abolition of office in certain counties of 45,000 to 45,500 population, see art. 2688c.

Savings clause, see art. 2688e, note.  
Title of Act:

An Act to provide for the abolition of the office of county superintendent in certain counties of the State; providing that any remaining duties required by law shall be performed by the county judge of such county; and declaring an emergency. Acts 1961, 57th Leg., p. 313, ch. 164.

**Art. 2688e. County-wide elections; petition; abolition of office; transfer of duties**

Section 1. (a) Upon a petition of twenty-five per cent (25%) of the qualified voters who cast a vote in the Governor's race at the preceding General Election in counties of less than one hundred thousand (100,000) population according to the last Federal Census; or upon a petition of twenty per cent (20%) of the qualified voters who cast a vote in the Governor's race at the preceding General Election in counties of one hundred thousand (100,000) or more population according to the last Federal Census, the county judge shall within ninety (90) days of the receipt of such petition call an election to determine by majority vote whether the office of county superintendent (or ex officio county superintendent and the county school board in counties having an ex officio county superintendent) shall be abolished. At such an election all ballots shall have printed thereon the following:

"FOR THE ABOLISHMENT OF THE OFFICE OF COUNTY SUPERINTENDENT OR FOR THE ABOLISHMENT OF THE OFFICE OF AN EX OFFICIO COUNTY SUPERINTENDENT AND THE COUNTY SCHOOL BOARD (AS THE CASE MAY BE)."

"AGAINST THE ABOLISHMENT OF THE OFFICE OF COUNTY SUPERINTENDENT OR AGAINST THE ABOLISHMENT OF THE OFFICE OF EX OFFICIO COUNTY SUPERINTENDENT AND THE COUNTY SCHOOL BOARD (AS THE CASE MAY BE)."

(b) Where the majority of the qualified electors approve the abolition of the office of county superintendent, the duties of such abolished office as may still be required by law shall vest in the county judge in ex officio capacity upon expiration of the current term of that office.

(c) Where the majority of the qualified electors approve the abolition of the office of the ex officio county superintendent and county school board, the duties of such abolished offices as may still be required by law shall be and become the duties of the office of county judge of said county upon the expiration of the current term of office of the ex officio county superintendent, and said county judge shall not be entitled to

nor receive any additional compensation as a result of these additional duties.

Sec. 2. Provided that not more than one such election may be called during any term of office of the incumbent county superintendent or ex officio county superintendent and that not during the year that a regular election for the office is being held.

Sec. 3. Provided that nothing in this Act shall apply to counties of nine hundred thousand (900,000) or more where the county superintendent and his staff are paid by the county; that on and after passage of this Act there shall be a county superintendent's office in these said counties whether or not there is a common school district therein. The salaries of the county superintendent and his employees shall be set by the school board in said county. Acts 1961, 57th Leg., p. 625, ch. 292.

Effective 90 days after May 29, 1961, date of adjournment.

Section 4 of the Act of 1961 provided: "All laws and parts of laws in conflict herewith are hereby repealed, except House Bill No. 214, Acts of the 57th Legislature, Regular Session, 1961, or any other Acts of the 57th Legislature, Regular Session, 1961,

and it is further enacted that if any of the provisions of this Act shall be held void or in conflict with any provisions of the Constitution of this state the fact that such provisions may be held void shall in no wise affect any other provisions of this Act."

Ex-officio superintendent, see art. 2701.

**Art. 2688f. Counties of 64,800 to 69,000; abolition of office; transfer of duties**

Section 1. No county having a population of more than sixty-four thousand, eight hundred (64,800) persons and less than sixty-nine thousand (69,000) persons according to the last preceding Federal Census shall have an office of county superintendent. The duties formerly performed by a county superintendent in any such county shall be performed by the county judges of such counties.

Sec. 2. In counties coming under the provisions of this Act, the county judge shall receive and retain for his services in performing the duties of county superintendent of public instruction, in addition to all other compensation provided by law, such salary as the county board of school trustees of the respective counties may provide subject to the provisions of Article 3888, Revised Civil Statutes, 1925, as amended, whether the county judge is compensated on a fee or salary basis by the county. Such salary shall be paid in the manner and from funds so provided by law for the payment of ex officio county superintendents. In the same manner and extent, and from the same funds, as provided in Articles 2701 and 3888, Revised Civil Statutes, 1925, as amended, the county board of school trustees in the respective counties may appoint an assistant to the ex officio county superintendent, provide for his salary, and provide for the office and traveling expenses for the office of the ex officio county superintendent. And the county judge, acting as county superintendent, shall perform all the duties in such counties as are by law to be performed by county superintendents, it being the purpose of this Act to abolish the office of county school superintendent, and to place such duties with the county judges of such counties. Acts 1961, 57th Leg., p. 1136, ch. 514.

Effective 90 days after May 29, 1961, date of adjournment.

Section 3 of the Act of 1961 repealed art. 2688c.

## CHAPTER THIRTEEN—SCHOOL DISTRICTS

## 2. INDEPENDENT DISTRICTS IN TOWN

Art. 2766b. Change of boundaries; independent districts in counties of 149,000 having 16,500 scholastics [New].

## 3. INDEPENDENT DISTRICTS IN CITIES

2775d. Establishment of board of trustees in independent school districts; petition and vote [New].

2777d—2. Terms of office of trustees of county-wide independent districts in certain counties with less than 2,601 population [New].

2777f. Terms of trustees in certain districts containing city of 8,950 to 9,150; elections [New].

2783g. Creation of separate independent district in counties over 100,000, containing same territory as city [New].

## 5. ADDITIONS AND CONSOLIDATIONS

2815—3. Incentive aid payments to independent school districts created through consolidation [New].

## 6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—53. Validation of districts; additions of territory; elections; bonds; boundaries; taxes; exceptions [New].

2815g—54. Validation of districts; acts of trustees; addition of territory; elections; bonds; boundaries; taxes; exceptions [New].

2815g—55. Validation of districts; resolutions, orders and ordinances for divorce or separation from municipal control; bonds; boundaries [New].

## 7. JUNIOR COLLEGES

2815h—10. Validation of districts; elections; boundaries; reactivated districts [New].

2815k—3. Classes for junior and senior year candidates for baccalaureate degrees in certain fields [New].

## 1. COMMON SCHOOL DISTRICTS

Art. 2744e—4. County-wide independent districts in counties with scholastic population not over 2500 and not more than two districts

Terms of office of trustees of county-wide independent districts in certain counties with less than 2,601 population, see art. 2777d—2.

Art. 2745c. Time for filing applications as candidate for trustees; printing ballot; absentee voting; voting machines

Sec. 1a. In all elections for the office of county school trustees, or trustees of any school district however created or designated, in counties where voting machines have been adopted, the authority charged with holding an election in any such county or school district shall, by proper resolution or order, provide that voting machines shall be used for the casting of absentee votes at such elections, in accordance with the provisions of Article 7.14, Section 7, of the Acts of 1951, 52nd Legislature, Chapter 492, known as the Election Code of the State of Texas. Added Acts 1961, 57th Leg., p. 1010, ch. 440, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## 2. INDEPENDENT DISTRICTS IN TOWN

Art. 2757. 2851—54 Incorporation of town

Any common school district containing seven hundred (700) inhabitants or more may form an incorporation for free school purposes only,

which may or may not include within its bounds any town or village incorporated for municipal purposes, the same not having assumed control of the public free schools within its limits.

Provided further, that any common school district containing one hundred and sixty-five (165) inhabitants or more, and containing an area of not less than eighty-three (83) square miles, and having an assessed property valuation of Three Million Dollars (\$3,000,000.00) or more may form an incorporation for free school purposes only, which may or may not include within its bounds any town or village incorporated for municipal purposes, the same not having assumed control of the public free schools within its limits. The territory so incorporated shall hereinafter be called an "independent school district."

Whenever any such common school district as herein provided is desired to be so incorporated there shall be presented to the county judge a petition signed by twenty (20) or a majority of the resident qualified voters thereof praying for an election to be ordered for the purpose of determining the question of such incorporation. Said petition shall also contain a definite description by metes and bounds of such common school district proposed to be so incorporated, and said petition shall recite the name by which such independent school district shall be known, and said petition shall pray for an election to determine whether said common school district shall be incorporated as an independent school district, and for the election of seven (7) trustees.

Upon presentation of said petition to the county judge as herein provided, such county judge shall enter his order upon the minutes of the Commissioners Court granting said petition, provided that said county judge finds and determines the sufficiency of such petition and that the facts presented to him in support of such petition are true and substantially inclusive. Such order of election by said county judge shall, when made, specify the date of said election which shall be held within twenty (20) days from the date of such order, and shall designate the place or places at which said election shall be held in said common school district proposed to be so incorporated, and said county judge shall, by such order, appoint a presiding officer for the place or each of the places of said election, and said county judge shall also, in entering such election order, describe the proposition to be so submitted together with a definite description by metes and bounds of the common school district proposed to be so incorporated. The said county judge shall issue a notice of such election stating in substance the contents of such election order and the time and place or places of said election, and said county judge shall cause the sheriff to post a copy of such notice of election in three (3) different public places within the boundaries of such common school district as described in said election order, which posting shall be done not less than ten (10) days prior to the date fixed for said election.

The said election shall be held under the provisions of the laws of this state regulating general elections, except as herein otherwise provided, and only qualified voters who are residents of the common school district proposed to be so incorporated, shall be entitled to vote at said election. The officers holding the said election shall make returns of the result thereof to said county judge, and said county judge shall canvass such returns and declare the results of said election, and if a majority of the votes cast at said election shall have been cast in favor of such incorporation, then said county judge shall so find and enter his order to that effect and incorporating said independent school district upon the minutes of the Commissioners Court and cause the county clerk to

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record a certified copy of such order in the deed records of the county. Thereupon, such "independent school district" shall thereafter be regarded as duly incorporated for free school purposes only and shall have and is hereby vested with all the rights, powers and privileges conferred and imposed by the General Laws of this state upon independent school districts. And said independent school district, shall, upon notice to the State Commissioner of Education, be entitled to receive its share of the available school fund to which it is entitled as provided by the laws of this state.

Whenever any incorporated town or village is included within the boundaries of any incorporated independent school district and such town or village be thereafter incorporated for municipal purposes, it shall not thereby acquire any right to take or assume control of the public free schools within its limits. As amended Acts 1959, 56th Leg., p. 201, ch. 114, § 1; Acts 1961, 57th Leg., p. 5, ch. 3, § 1.

Emergency. Effective February 14, 1961.

**Art. 2758. 2852—3 Board of trustees**

Establishment of board of trustees in independent school districts, see art. 2775d.

**Art. 2763a. Depositories, assessors and collectors in independent districts created by special laws; bond; control of schools**

Section 1. Any independent school district heretofore created by Special Law may, by proper order or orders passed by its board of trustees, select and designate its own school depository or depositories and also its own assessor and collector of taxes in accordance with the General Laws applicable to other independent school districts. Such school depository or depositories when so selected and designated, shall be required to give bond in accordance with the provisions of Article 2832, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 2. The Board of Trustees of any independent school district covered by this Act, after selecting and designating said district's own depository or depositories and its own assessor and collector of taxes, in accordance with the provisions hereof, shall thereafter maintain and control the public free schools within said district to the exclusion of every other authority, except insofar as the State Superintendent of Public Instruction and the State Board of Education may be vested with supervisory authority to instruct said Board and to exercise appellate jurisdiction in connection with its rulings or orders.

Sec. 3. Nothing in this Act shall be construed to affect, supersede, or change any of the provisions of Article 2763, Revised Civil Statutes of Texas, 1925, as amended. As amended Acts 1961, 53rd Leg., p. 1025, ch. 451, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 2766b. Change of boundaries; independent districts in counties of 149,000 having 16,500 scholastics**

On and after the effective date of this Act no changes of boundaries of independent school districts having sixteen thousand, five hundred (16,500) scholastics or more and being located in counties having a population of one hundred and forty-nine thousand (149,000) or more, according to the last preceding Federal Census, shall be made or effected, whether

by election or by order of the county board of school trustees, or by any other method, unless and until the petition or proposal or order seeking to make such change either by consolidation election, annexation or detachment previously has been approved by a majority vote of the board of trustees or board of education of such independent school district. Acts 1961, 57th Leg., p. 1082, ch. 484, § 1.

Emergency. Effective June 17, 1961.

**Art. 2775d. Establishment of board of trustees in independent school districts; petition and vote**

Section 1. Any independent school district may establish a board of trustees to be composed of seven (7) members. When at least twenty-five per cent (25%) of the number of qualified voters who voted in the last regular school board election sign and present to the County Judge a petition praying for submission of the proposition that at the next regular school board election there shall be a vote as to whether or not the board of trustees shall be composed of seven (7) members, the County Judge shall determine the sufficiency of said petition, and if sufficient, shall enter his order upon the minutes of the Commissioners Court to submit the proposition as herein provided. Approval of the proposition shall be by a majority vote.

If the proposition is approved, then at the next following regular school board election there shall be elected trustees, to serve a three-year term, to fill any new vacancies created by the approval of the proposition creating a seven-member board, if any, or any vacancy created by the expiration of the term of a member. Any member previously named shall serve the full term to which elected. The County Judge may provide for staggered terms of the board of trustees, provided if it should be required that two (2) or more newly elected trustees serve less than the full term of three (3) years, then the determination of which members shall serve for the lesser term shall be by lot. Acts 1961, 57th Leg., p. 503, ch. 242.

Effective 90 days after May 29, 1961, date of adjournment.

**Title of Act:**

An Act to provide that certain independent school districts may, by petition and vote, establish a board of trustees to be composed of seven (7) members; and declaring an emergency. Acts 1961, 57th Leg., p. 503, ch. 242.

Board of trustees, see art. 2753.

Election of trustees and terms of office, see art. 2777a.

**Art. 2777a. Election of trustees and terms of office**

Establishment of board of trustees in independent school districts, see art. 2775d.

**Art. 2777d—2. Terms of office of trustees of county-wide independent districts in certain counties with less than 2,601 population**

**Application of act**

Section 1. This Act shall apply in all county-wide independent school districts, whether created under the General Laws or by Special Act of the Legislature and having a board of seven (7) trustees and where the population of the county is less than two thousand, six hundred and one (2,601), as shown by the last preceding Federal Census, and where the county has a common border with the Republic of Mexico, and where, heretofore, four (4) trustees were elected for two (2) year terms on the first Saturday in April in even-numbered years and three (3) trustees were elected for two (2) year terms in odd-numbered years.

**Terms of office**

Sec. 2. The three (3) trustees elected to office on the first Saturday in April of 1961 shall serve a term of three (3) years and their term of office shall expire on the first Saturday in April of 1964 and on the first Saturday in April of 1964, three (3) trustees shall be elected in such districts for three (3) year terms each and the same procedure shall be followed on the first Saturday in April of each third year thereafter. The terms of office of two (2) of the four (4) trustees elected to office on the first Saturday in April of 1960 shall expire on the first Saturday in April of 1962 and an election shall be had on the first Saturday in April of 1962 in such independent school districts and at such election two (2) trustees shall be elected in such districts for a term of three (3) years each and there shall be an election of two (2) trustees for a term of three (3) years each on the first Saturday in April of each third year thereafter. The terms of office of the other two (2) of the four (4) trustees elected on the first Saturday in April of 1960, shall expire on the first Saturday in April of 1963 and there shall be an election in such independent school districts on the first Saturday in April of 1963 of two (2) trustees for a term of three (3) years each and there shall be an election of two (2) trustees for a term of three (3) years each on the first Saturday in April of each third year thereafter.

**Choosing terms by lots**

Sec. 3. There shall be a drawing of lots by the four (4) trustees elected on the first Saturday in April of 1960 at the first regular meeting of the board of trustees of the independent school districts within the purview of this Act after the effective date of this Act, and the lots shall be numbered 1, 2, 3 and 4 and the two (2) trustees that draw the lots marked 1 and 2 shall have their terms of office expire on the first Saturday in April of 1962 and the terms of office of the two (2) trustees that draw lots numbered 3 and 4 shall expire on the first Saturday in April of 1963.

**Subsequent elections**

Sec. 4. After the first election of a three (3) year term, as herein provided for, all subsequent elections shall be held every three (3) years, and at each such election there shall be elected alternately two (2) school trustees, or three (3) school trustees, as the case may be, for a term of three (3) years.

**Vacancies**

Sec. 5. If any vacancy or vacancies occur in the membership of any such Board of School Trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining school trustees of such school district, but any school trustees so elected to fill a vacancy shall serve only for the unexpired term of his or her predecessor.

**Conduct of elections**

Sec. 6. Except as modified by this Act, all such elections in such independent school districts shall be held in the manner and in conformity with provisions of law now applicable.

**Provisions of act cumulative; conflicting provisions**

Sec. 7. The provisions of this Act shall be cumulative of all General Laws on the subject and not in conflict herewith, and where not otherwise provided herein, such General Laws shall apply, but in case of con-

flict the provisions of this Act shall control and be effective. Acts 1961, 57th Leg., p. 269, ch. 145.

Emergency. Effective May 15, 1961.

County schools, election of trustees, see art. 2676.

County-wide independent districts in counties with scholastic population not over 2500, election and terms of trustees, see art. 2744c-4.

Districts created by special law, alternative method of electing trustees, see art. 2774c.

Election and term of school trustees in certain districts, see art. 2774a.

Similar provisions relating to districts within cities of 2,620 to 2,630 population, see art. 2777d-1.

**Title of Act:**

An Act relating to terms of office of school trustees in certain school districts; choosing terms by lots; providing for subsequent elections and filling of vacancies; providing that provisions of this Act shall be cumulative; and declaring an emergency. Acts 1961, 57th Leg., p. 269, ch. 145.

**Art. 2777f. Terms of trustees in certain districts containing city of 8,950 to 9,150; elections**

**Application of law**

Section 1. This Act shall apply in all independent school districts, whether created under the General Laws or by special Act of the Legislature and having a board of seven (7) trustees and where the greatest geographic portion of any such independent school district is situated within the boundaries of a city having a population in excess of eight thousand, nine hundred and fifty (8,950) and not more than nine thousand, one hundred and fifty (9,150), as shown by the last preceding Federal Census, and where heretofore four (4) trustees were elected for two (2) year terms on the first Saturday in April in even-numbered years and three (3) trustees were elected for two (2) year terms in odd-numbered years.

**Terms of office**

Sec. 2. The three (3) trustees elected to office on the first Saturday in April of 1961 shall serve a term of three (3) years and their term of office shall expire on the first Saturday in April of 1964, and on the first Saturday in April of 1964, three (3) trustees shall be elected in such districts for three (3) year terms each and the same procedure shall be followed on the first Saturday in April of each third year thereafter. The terms of office of two (2) of the four (4) trustees elected to office on the first Saturday of April in 1960 shall expire on the first Saturday in April of 1962 and an election shall be had on the first Saturday in April of 1962 in such independent school districts and at such election two (2) trustees shall be elected in such districts for a term of three (3) years each and there shall be an election of two (2) trustees for a term of three (3) years each on the first Saturday in April of each third year thereafter. The terms of office of the other two (2) of the four (4) trustees elected on the first Saturday in April of 1960, shall expire on the first Saturday in April of 1963 and there shall be an election in such independent school districts on the first Saturday in April of 1963 of two (2) trustees for a term of three (3) years each and there shall be an election of two (2) trustees for a term of three (3) years each on the first Saturday in April of each third year thereafter.

**Choosing terms by lot**

Sec. 3. There shall be a drawing of lots by the four (4) trustees elected on the first Saturday in April of 1960 at the first regular meeting of the board of trustees of the independent school districts within the



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purview of this Act after the effective date of this Act, and the lots shall be numbered 1, 2, 3 and 4 and the two (2) trustees that draw the lots marked 1 and 2 shall have their terms of office expire on the first Saturday in April of 1962 and the terms of office of the two (2) trustees that draw lots numbered 3 and 4 shall expire on the first Saturday in April of 1963.

#### Subsequent elections

Sec. 4. After the first election of a three (3) year term, as herein provided for, all subsequent elections shall be held every three (3) years, and at each such election there shall be elected alternately two (2) school trustees, or three (3) school trustees, as the case may be, for a term of three (3) years.

#### Vacancy

Sec. 5. If any vacancy or vacancies occur in the membership of any such board of school trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining school trustees of such school district, but any school trustees so elected to fill a vacancy shall serve only for the unexpired term of his or her predecessor.

#### Conduct of elections

Sec. 6. Except as modified by this Act, all such elections in such independent school districts shall be held in the manner and in conformity with provisions of law now applicable.

#### Law cumulative

Sec. 7. The provisions of this Act shall be cumulative of all General Laws on the subject not in conflict herewith, and where not otherwise provided herein, such General Laws shall apply, but in case of conflict the provisions of this Act shall control and be effective. Acts 1961, 57th Leg., p. 1176, ch. 531.

Effective 90 days after May 29, 1961, date of adjournment.

### Art. 2783d. Separation from municipal control of extended municipal school district having city of 290,000 or more

#### Election to board of trustees; majority vote

Sec. 6a. Candidates for election to said Board shall be nominated by a majority vote of the electors voting in such election and in the event no candidate receives a majority of the votes cast therein the Board of Education, after canvassing the results thereof, shall cause the names of the two (2) candidates receiving the highest number of votes to be placed on the ballot to be voted upon at a special election, which shall be called by the Board of Education within five (5) days after the date the results are canvassed and shall be held not less than fifteen (15) nor more than thirty (30) days from said date. Said election shall be held and conducted in the manner prescribed by law for regular trustee elections, except the Board of Education, if it deems advisable may provide that absentee votes in any regular or special election shall be cast at the administration building of the District. Added Acts 1961, 57th Leg., p. 4, ch. 2, § 1.

Emergency. Effective Feb. 14, 1961.

Art. 2783g. Creation of separate independent district in counties over 100,000, containing same territory as city

Section 1. The county board of school trustees of any county having in excess of 100,000 population according to the most recent Federal Census is authorized to create a separate independent school district to contain the same territory then contained in any city assumed or controlled school district in the county, where any such school district extends beyond the limits of the city. When an independent school district is created by the county board of school trustees as herein authorized, the city assumed or controlled school district shall cease to exist, and all assets of the former city assumed or controlled school district automatically shall be vested in the newly created district, and all liabilities of the former city assumed or controlled school district shall be assumed by the newly created independent school district. It is further provided, however, that the county board of school trustees shall create any such independent school district when requested to do so by a resolution adopted by the board of trustees of the city assumed or controlled district to be affected thereby. All General Laws relating to independent school districts shall be applicable to school districts created under this Act.

Sec. 2. When any independent school district is created and established under this Act, the trustees of the city assumed or controlled school district affected thereby shall become the trustees of the newly created independent school district for the remainder of the terms, respectively, for which they were appointed or elected, and thereafter the successors shall be elected in the manner provided by General Laws relating to independent school districts.

Sec. 3. Any independent school district created under this Act and the city which formerly assumed or controlled such district, are authorized to enter into a contract providing for the city tax assessor and board of equalization to assess and equalize the valuations of all taxable property in the entire independent school district, and for the city tax collector to collect all of the taxes of said district. Such contract shall specify the compensation to be paid by the district to the city, which compensation shall not exceed the district's proportionate part of the cost of the city's tax assessing, equalizing and collection costs, based upon the amount of taxes levied by each.

Sec. 4. The provisions of this Act and the application hereof shall govern and prevail over any statutory or city charter provisions to the contrary, and all statutory and city charter provisions which conflict with the provisions of this Act or the application hereof are repealed and declared to be inconsistent with this Act to the extent of any such conflict. Acts 1961, 57th Leg., p. 922, ch. 407.

Emergency. Effective June 17, 1961.

#### 4. TAXES AND BONDS

Art. 2784e—3. Additional tax for common school districts in counties of 115,000 to 123,000 population

Section 1. The Commissioners Court for the common school districts in all counties having a population of not less than one hundred fifteen thousand (115,000) persons nor more than one hundred twenty-three thousand (123,000), according to the last preceding Federal Census, may levy and cause to be collected a tax, in addition to that authorized under Sec-

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tion 1, Chapter 304, Acts of the Forty-ninth Legislature, 1945, as amended (compiled as Article 2784e of Vernon's Annotated Revised Civil Statutes), not to exceed One Dollar (\$1) on the One Hundred Dollar (\$100) valuation of taxable property of the district for the maintenance and use of the schools therein. The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the Forty-ninth Legislature, 1945, as amended (compiled as Section 3, Article 2784e of Vernon's Annotated Revised Civil Statutes of Texas), shall not apply to the additional tax provided for in this Section and the tax provided for in this Section shall be in addition to that limit.

Section 2. No tax shall be levied, collected, abrogated, diminished, or increased hereunder until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1959, 56th Leg., p. 1007, ch. 468, as amended Acts 1961, 57th Leg., p. 64, ch. 39, § 1.

Emergency. Effective March 27, 1961.

**Art. 2789d. Refunding and additional bonds of independent district issuing bonds pursuant to composition in bankruptcy**

Texas uniform facsimile signature of public officials, act see art. 717j—1.

**5. ADDITIONS AND CONSOLIDATIONS**

**Art. 2815—3. Incentive aid payments to independent school districts created through consolidation**

Section 1. From the effective date of this Act independent school districts hereafter created through consolidation may qualify for Incentive Aid Payments by the State of Texas; provided, however, no school district may receive such payments for a period of more than ten (10) years. Such Incentive Aid Payments shall be made only upon application to the Texas Education Agency and in compliance with the terms and conditions contained in this Act.

A. The amount of Incentive Aid Payments shall not exceed the difference between the sum of the Foundation Program Payments which would have been paid to the several districts included in the newly organized district had there been no consolidation, and the amount of Foundation Program Assistance for which the new district qualifies.

B. The new district created through consolidation shall contain not fewer than one thousand (1,000) children in average daily attendance or a majority of the children in average daily attendance in the county containing the majority of the land area involved in the reorganization.

C. The Incentive Aid Payments shall be used exclusively to retire the existing bonded indebtedness of the school districts which have been consolidated, or shall be applied to the cost of constructing new buildings required by the reorganized district.

D. The Incentive Aid Payments shall be reduced in direct proportion to any reduction in the annual average daily attendance of the reorganized school district for the preceding year. Acts 1961, 57th Leg., p. 556, ch. 260.

Sec. 1a. Consolidation for purposes of this Act, shall mean and have application to creation of new districts by election under school district consolidation laws and/or by enlargement of existing districts by annexa-

tion thereto of entire contiguous district or districts, other than dormant districts, under annexation laws, and where the district consolidated by election or enlarged by annexation under such laws results as an independent school district. Added Acts 1961, 57th Leg., 1st C.S., p. 155, ch. 41, § 1.

Effective 90 days after August 8, 1961,  
date of adjournment.

Sec. 2. As a condition precedent to receiving Incentive Aid Payments (a) the geographical limits of the proposed consolidated district shall be submitted to the Texas Education Agency for approval and the geographical limits so approved shall be set forth in the petition for any consolidation election; and (b) the consolidation of the school districts shall result in the formation of an independent school district.

Sec. 2a. The cost of Incentive Aid Payments hereby authorized shall be paid from the Foundation School Fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for purposes of the Foundation School program and such Incentive Aid Payments. Acts 1961, 57th Leg., p. 556, ch. 260.

Effective September 1, 1961.

Bonds, see art. 2786.

Creation of common school district embracing entire county, see art. 2744b.

Foundation school program, see art. 2922—11 et seq.

Independent district bonds, see art. 2788.

Title of Act:

An Act authorizing Incentive Aid Payments to certain independent school districts; specifying the conditions for such incentive payments, and making other provisions relating thereto; containing a severability clause; and declaring an emergency. Acts 1961, 57th Leg., p. 556, ch. 260.

## 6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—53. Validation of districts; additions of territory; elections; bonds; boundaries; taxes; exceptions

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, regional college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or proposed districts, or by action of the governing body of any such municipalities, or by action of the county schools boards, or by action of the county judge, or by action of the Commissioners Courts, and whether created by General or Special Law in this State, and heretofore recognized by either state or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance, and further providing that whenever a vacancy occurs on the board of trustees of a rural high school established under the provisions of Article 2922(a), (c), and (f) shall be filled for the unexpired term by appointment by the county board of trustees.

All acts of the county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or

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increasing or decreasing the area thereof, or abolishing school districts in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county boards of school trustees of any and all counties in rearranging, annexing, detaching or attaching of territory, increasing or decreasing the area, or changing the boundaries of any and all junior college districts, are hereby in all things validated.

All acts and orders of the county boards of trustees of any and all counties in adding territory to any junior college district, which said college district was originally created with the same boundary lines as an independent school district and to which independent school district territory has been added, such added territory to such college district being the same that was added to said independent school district and making the boundary lines of such districts identical, are hereby in all things validated, regardless of whether such order or orders of the county board were enacted at the time of the addition of territory to the independent school district or subsequent thereto, and whether such orders were entered nunc pro tunc or otherwise. All elections for bonds, the levy and collection of taxes, and/or debt assumption ordered by the governing body of such junior college district and held over the entire enlarged or extended area, in which election a majority of the qualified voters owning taxable property within such junior college district as enlarged or extended and having duly rendered the same for taxation, are hereby in all things validated; and said governing body is hereby authorized to issue such bonds and levy such taxes, and the indebtedness so assumed is hereby declared to be the indebtedness of such enlarged junior college district.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such district voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings called for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the Commissioners Courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district, are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or di-

divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated, and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the Commissioners Courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the county judge or the Commissioners Court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district. All revenue bonds issued and outstanding, and all revenue bonds authorized but not yet issued for and on behalf of school districts and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of school districts or the governing bodies of municipalities or the county judges or the Commissioners Courts in entering into leases of real estate or other property to such school districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect, or purchase improvements for such school districts on such leased real estate are hereby in all things validated.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the taxpaying voters of said districts or by any Act whether General or Special, by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. Anything to the contrary notwithstanding, this Act shall not be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution or act of the Board of Trustees of any school district.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this State on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any mat-

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ters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this State or which may have been established and which was later returned to its original status. Acts 1961, 57th Leg., p. 15, ch. 9.

Emergency. Effective Feb. 23, 1961.

**Art. 2815g—54. Validation of districts; acts of trustees; additions of territory; elections; bonds; boundaries; taxes; exceptions**

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, regional college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized and/or created by vote of the people residing in such districts or proposed districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judge or county judges, or by action of the Commissioners Courts, and whether created by General or Special Law in this State, and heretofore recognized by either state or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance, and further providing that whenever a vacancy occurs on the board of trustees of a rural high school established under the provisions of Article 2922(a), (c), and (f) shall be filled for the unexpired term by appointment by the county board of trustees.

All acts of the county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or increasing or decreasing the area thereof, or abolishing school districts in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county boards of school trustees of any and all counties in rearranging, annexing, detaching or attaching of territory, increasing or decreasing the area, or changing the boundaries of any and all junior college districts, are hereby in all things validated.

All acts and orders of the county boards of trustees of any and all counties in adding territory to any junior college district, which said college district was originally created with the same boundary lines as an independent school district and to which independent school district territory has been added, such added territory to such college district being the same that was added to said independent school district and making the boundary lines of such districts identical, are hereby in all things validated, regardless of whether such order or orders of the county board were enacted at the time of the addition of territory to the independent school district or subsequent thereto, and whether such orders were entered nunc pro tunc or otherwise. All elections for bonds, the levy and collection of taxes, and/or debt assumption ordered by the governing body

of such junior college district and held over the entire enlarged or extended area, in which election a majority of the qualified voters owning taxable property within such junior college district as enlarged or extended and having duly rendered the same for taxation, are hereby in all things validated; and said governing body is hereby authorized to issue such bonds and levy such taxes, and the indebtedness so assumed is hereby declared to be the indebtedness of such enlarged junior college district.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such district voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings called for the consolidation of one or more common school districts and/or one or more independent school districts within an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the Commissioners Courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district, are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated; and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the Commissioners Courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the



county judge or the Commissioners Court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district. All revenue bonds issued and outstanding and all revenue bonds authorized but not yet issued for and on behalf of school districts and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of school districts or the governing bodies of municipalities or the county judges or the Commissioners Courts in entering into leases of real estate or other property to such school districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect, or purchase improvements for such school districts on such leased real estate are hereby in all things validated.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the taxpaying voters of said districts or by any Act whether General or Special, by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. Anything to the contrary notwithstanding, this Act shall not be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution or act of the board of trustees of any school district.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this State on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the county boards of trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this State or which may have been established and which was later returned to its original status. Acts 1961, 57th Leg., p. 378, ch. 191.

Emergency. Effective May 20, 1961.

Art. 2815g—55. Validation of districts; resolutions, orders and ordinances for divorcement or separation from municipal control; bonds; boundaries

Section 1. All school districts of every kind and type whatsoever, including all types of junior and regional college districts, which have been recognized by either state or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally created, established and/or organized in the first instance, regardless of the actual manner in which they were attempted to be created, established and/or organized; and the boundary lines and names of all such school districts are likewise validated. All resolutions, orders, ordi-

nances, and other acts or attempted acts of all county boards of school trustees and county boards of education, Commissioners Courts, and county judges, in changing or attempting to change the boundaries of any school district of any type whatsoever, including all types of junior and regional college districts, whether by rearrangement of boundaries or correction of boundary lines, by subdividing or detachment, by annexation or consolidation of all or part of one or more such school districts to or with all or part of one or more other such school districts, by grouping of such school districts, or otherwise, or in creating or attempting to create any such school district, or in abolishing or attempting to abolish any such school district, or in converting or attempting to convert any such school district into any other type of school district, are hereby validated in all respects, and all such boundary changes, creations, abolitions and conversions, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 2. All resolutions, orders, ordinances and other acts or attempted acts of all governing bodies of all municipalities and of all governing bodies of all municipally controlled or assumed school districts and extended municipal school districts, in separating or divorcing or attempting to separate or divorce such schools or school districts from municipal control, jurisdiction or authority, and/or of the governing bodies of all municipalities in annexing or attempting to annex any territory to any such municipally controlled, assumed or extended school districts, are hereby validated in all respects, and all such separations or divorcements and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 3. All bonds, including both tax and revenue bonds, and including voted or authorized but undelivered bonds as well as outstanding bonds, and all voted bond taxes and voted maintenance taxes, of and in all school districts of every kind and type whatsoever, including all types of junior and regional college districts, and all bond, maintenance tax and bond assumption elections heretofore held in all such school districts, together with all proceedings, resolutions, orders, ordinances and other acts or attempted acts of the governing bodies of bond-issuing authorities of all such school districts, pertaining to, or attempting to issue or authorize, any such bonds, bond taxes, maintenance taxes and bond assumptions, be and are hereby validated in all respects, and all such bonds, bond taxes, maintenance taxes and bond assumptions shall be valid as though they had been duly and legally issued, authorized or accomplished in the first instance. All resolutions, orders, ordinances, leases, deeds, conveyances and other instruments and acts or attempted acts of the governing bodies and/or the presiding officers and/or the secretaries of the governing bodies of all school districts of every kind and type whatsoever, including all types of junior and regional college districts, pertaining to leases of real estate and other property and/or pertaining to the conveyance or donation, or any attempt at the conveyance or donation, of any real estate or other property, whether a part or all of the assets of any such school district, to the State of Texas or to any State College or University or the governing board thereof, be and are hereby validated in all respects, and all such leases, conveyances or donations, or attempts thereat, shall be valid as though they had been duly and legally authorized, executed, delivered and accomplished in the first instance.

Sec. 4. Nothing in this Act shall be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution or other act of the Board of Trustees of any school district,

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and this Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this state or which may have been established and which was later returned to its original status. Acts 1961, 57th Leg., 1st C.S., p. 40, ch. 17.

Emergency. Effective Aug. 11, 1961.

## 7. JUNIOR COLLEGES

### Art. 2815h. Junior College Districts

#### Annexation of territory added to independent school districts

Sec. 21a. Where any Junior College District as originally created and organized had the same boundaries as an Independent School District and where the boundaries of such Independent School District have been or may hereafter be extended and enlarged by consolidation, attachment of territory or by any other means, or by a combination of one or more of such means, so that the boundaries of such Junior College District and Independent School District are no longer coincident, then such territory which has been added to such Independent School District by such consolidation, attachment or other means, or by a combination of one or more of such means, may be annexed to such Junior College District for Junior College purposes only in the same manner as set forth in Chapter 118, Acts of the 56th Legislature, 1959, Regular Session, (codified as Section 21 of Article 2815h, Vernon's Texas Civil Statutes) except that the petition to call the election shall be executed by five per cent (5%) of the property tax paying voters residing in such territory seeking to be annexed, the election shall be held in such territory seeking to be annexed and those legally qualified voters residing in such territory seeking to be annexed shall be permitted to vote.

Whenever a portion of an Independent School District has been annexed to a Junior College District for Junior College purposes only in the manner provided by this Act, then the governing board of such Junior College District shall, in the same manner and within the same period of time, take the action contemplated to be taken by the governing board of a Junior College District under the provisions of Chapter 118, Acts of the 56th Legislature, 1959, Regular Session, after an entire Independent School District or Districts or a Common School District or Districts have been annexed to such Junior College District for Junior College purposes. Added Acts 1961, 57th Leg., p. 90, ch. 52, § 1.

Emergency. Effective March 30, 1961.

### Art. 2815h—8. Refunding bonds authorized; interest rate; approval; registration

Texas uniform facsimile signature of public officials act, see art. 717j—1.

Tex.St.Supp.1962—16

**Art. 2815h—10. Validation of districts; elections; boundaries; reactivated districts**

All Junior College Districts heretofore created and recognized as an existing Junior College District by the State Board of Education or the Texas Education Agency and any Junior College or Junior College District to which the Legislature of the State of Texas has heretofore appropriated funds are hereby validated, ratified and confirmed. All actions of the County Boards of School Trustees in ordering an election on whether a school district or districts would be annexed to an existing Junior College District, and all orders of the County Board of School Trustees in canvassing the returns and declaring the result of any such election are hereby ratified, validated and confirmed and the boundaries of such Junior College District are hereby recognized to be the boundaries of the Junior College District as it existed at the time of the election with the addition of the territory of the school district or district<sup>12a</sup> wherein a majority of the qualified voters voted to be annexed to the Junior College District as such school district or districts existed on the said date. All actions of the governing body of any Junior College District which has ceased to maintain a Junior College in determining that the Junior College District and the Junior College should be reactivated are hereby ratified, confirmed and validated and such districts shall not be considered as dormant. Acts 1961, 57th Leg., 1st C.S., p. 27, ch. 8, § 5.

Emergency. Effective Aug. 8, 1961.

Sections 1-4 of the Act of 1961 amended  
article 2815n, §§ 1(a), 2(a), 3 and 7.

**Art. 2815k—3. Classes for junior and senior year candidates for baccalaureate degrees in certain fields**

Section 1. Any junior college district in this State, situated entirely or in part within the boundaries of any city having a population in excess of one hundred sixty thousand (160,000) according to the last preceding decennial Federal Census and having less than two (2) colleges or universities offering baccalaureate degrees within the boundaries of any such city, is hereby authorized, subject to the other provisions of this Act, to offer and conduct classes which may be required or accepted of candidates for baccalaureate degrees in the fields of liberal arts, business training, teacher education and music during their junior and senior years, and to award such degrees, to the extent that the governing body of any such district shall deem advisable, provided nothing in this Act shall be construed to permit or authorize any junior college district in this State which elects to take advantage of this Act to award degrees in the fields of engineering, law, medicine, agriculture, journalism, architecture, or pharmacy.

Sec. 2. No funds heretofore or hereafter appropriated by the Legislature of this State for payment to any such junior college district shall be used to defray any of the costs of teaching or otherwise defraying the costs of students who are in their third and fourth collegiate years. Furthermore any college made a senior college under the authority of this Act shall be prohibited from receiving state aid for junior and senior level work for twenty (20) years from the date of the passage of this Act.

Sec. 3. The power and authority herein granted shall not apply or be available to any junior college district unless and until the governing board of such district is authorized to proceed under the terms hereof

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

at an election held for such purpose. Such election shall be held in the following manner: the governing board of such district shall, without the prerequisite of the filing of any petition, order an election to be held in such junior college district, such election to be held not less than twenty (20) days nor more than thirty (30) days from the date of said order calling such election, and such governing board shall give public notice of such election by publishing notice of such election in a newspaper of general circulation in such district at least once a week for a period of three (3) consecutive weeks between the date of the order calling the election and the date of the election. Only those legally qualified voters who have duly rendered property for taxation in such junior college district shall be permitted to vote. Except as modified herein, such election shall be conducted and canvassed in accordance with the General Laws relative to elections in Independent School Districts. If a majority of the votes cast at such election favor the exercise of the power herein granted, and only in such event, the governing body of such junior college district shall be vested with the additional powers and authority prescribed by this Act.

The governing board of such junior college district may call the election herein provided for at any time after the effective date of this Act, but if an election is called and held hereunder and the proposition should fail to receive a majority of the votes cast, then no additional election shall be called on such proposition until at least one year after the date such prior election was held.

Sec. 4. This Act shall be cumulative of all other laws and shall not be construed to limit or affect the classes now being offered or which may be offered and conducted by junior college districts not subject to the provisions of this Act; nor to limit or affect the classes which may be offered and conducted in addition to those described in Section 1 above by junior college districts which are subject to the provisions of this Act, whether or not they elect to take advantage of this Act. Acts 1961, 57th Leg., p. 568, ch. 266.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 2815n. Trustees of junior college districts to which other districts annexed

##### Board of district to which another district annexed; continuance in office

Sec. 1(a). The Board of Trustees of the Junior College District to which another district or districts may be or have been annexed shall continue in office and be the governing body of the Junior College District until such time as the new members of the Board of Trustees of said Junior College District shall have been elected or appointed and have duly qualified. Added Acts 1961, 57th Leg., 1st C.S., p. 27, ch. 8, § 1.

Emergency. Effective Aug. 8, 1961.

##### Number of trustees

##### Sec. 2a.

*Another section 2(a) was added by Acts 1961, 57th Leg., 1st C.S., p. 27, ch. 8, § 2. See § 2(a) post.*

##### Alternative method of apportionment; resolution

Sec. 2(a). The Board of Trustees of any such Junior College District (including the Board of Trustees of the Junior College District who continue to hold office under the provisions of Section 1(a) of this law) may

elect to have the trustees of the Junior College District apportioned under the provisions of this Section (rather than the provisions of Section 2) by the adoption of a resolution to such effect. Within ninety days of the adoption of such resolution, the Board of Trustees of the Junior College District shall appoint a new Board of Trustees for the Junior College District on the following basis: one trustee shall be appointed from the area comprising the original Junior College District as it existed prior to any district or districts being annexed for Junior College purposes only; one trustee shall be appointed from each of the districts annexed for Junior College purposes only; each such district, including the original Junior College District, shall also be entitled to one trustee for every Three Million Dollars (\$3,000,000) assessed valuation for Junior College purposes according to the last approved tax roll for Junior College District purposes. Members of the governing body so appointed shall, upon qualification, divide into classes as provided in Section 5 hereof and shall serve until their successors in office shall have been duly elected and qualified. Successors in office shall be elected by the qualified voters residing in the area the trustee is to represent. The giving of notice of election, the manner of holding the same, absentee voting, the making of returns, and declaring the result thereof shall be governed by the General Laws relating to election of trustees in independent school districts, except as herein modified. Added Acts 1961, 57th Leg., 1st C.S., p. 27, ch. 8, § 2.

Emergency. Effective Aug. 8, 1961.

*Another section 2a was added by Acts 1957, 55th Leg., p. 280, ch. 129, § 1. See § 2a ante.*

**Determination of assessed valuation; number of trustees; call of election; voting boxes; terms of office**

Sec. 3. The Board of Trustees shall on the first Monday in March of each year determine the amount of the assessed valuation in each district, according to the last approved assessment rolls for Junior College purposes, shall determine the number of trustees to be elected, and shall immediately thereafter order an election for the purpose of electing trustees, and at least one voting box in each of the districts electing trustees in that year shall be provided. The General Law relating to election of trustees for independent school districts shall govern all matters relating to the election insofar as the same are not inconsistent with the provisions hereof.

The number of directors to serve from the district as originally established and from each of the districts annexed thereto shall be determined in accordance with the provisions of Section 2 or 2(a) of this Act—whichever shall then be applicable to the Junior College District.

In the event, by reason of a decrease in taxable values, the number of trustees representing an area of any one district shall decrease, the trustees then representing such district shall continue in office until the expiration of the respective terms of office for which appointed or elected. As amended Acts 1961, 57th Leg., 1st C.S., p. 27, ch. 8, § 3.

Emergency. Effective August 8, 1961.

**Classes of trustees; terms of office**

Sec. 5. The trustees first elected for such Junior College Districts, as provided by this Act after taking the oath of office, shall by lot divide themselves into three (3) classes in as nearly equal numbers as is possible. One class shall serve for one (1) year, one class shall serve for two (2) years and the third class shall serve for three (3) years. If said

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classes are not composed of equal numbers of members, then the class, or classes containing the greater number of members shall serve the shorter term or terms. Thereafter, trustees shall be elected for six (6) year terms. In any such district governed by the provisions of this Act where trustees are now serving for three (3) year terms, these trustees shall serve a six (6) year term instead of three (3) years as originally provided by their election, and the trustees elected to succeed such trustees shall be elected for a term of six (6) years and shall serve otherwise in the same manner as provided in this Act. As amended Acts 1961, 57th Leg, p. 157, ch. 80, § 1.

Emergency. Effective April 24, 1961.

**Annexation of school districts; election; petition; expenses; terms of trustees**

Sec. 7. An adjacent common school district or districts and an adjacent independent school district or districts may be annexed to the Junior College District upon a majority vote of the qualified voters of the district or districts to be annexed, provided no election to annex any district or districts shall be ordered unless the governing body of the Junior College District has approved the proposed annexation. A petition praying for an election on the annexation of a district or districts shall be presented to the County Board of School Trustees in the county having jurisdiction over the principal school or schools of the district sought to be annexed and in the event there is no County Board of School Trustees in such county the petition shall be presented to the Commissioners Court of that county. Such petition shall be signed by not less than fifty qualified voters of the district to be annexed and upon approval of the annexation by the governing body, the County Board or Commissioners Court shall order an election to be held within the district to be annexed on a date not less than fifteen nor more than thirty days from the date the election is ordered and the order of election shall prescribe the method by which notice of the election shall be given. The expense of such elections shall be paid by the Junior College District. Any district annexed under the provisions hereof shall, at the next regular trustee election, be entitled to elect a representative or representatives in the same manner hereinabove provided. The trustee or trustees first elected shall serve for a period of two years, successors in office shall serve for a period of six years. Acts 1951, 52nd Leg., p. 609, ch. 361, § 7 as amended Acts 1961, 57th Leg., 1st C.S., p. 27, ch. 8, § 4.

Emergency. Effective August 8, 1961.

Section 5 of the amendatory Act of 1961 validated junior college districts. See art. 2815h—10. Section 6 repealed conflicting laws. Section 7 provided: "This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trus-

tees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this state or which may have been established and which was later returned to its original status."

Art. 2815r—1. Buildings, structures and additions; construction, acquisition and equipment; powers of district regents

Authority to construct, acquire and equip buildings and structures; loans and contracts

Section 1. The board of regents of any junior college district heretofore or hereafter organized under the laws of the State of Texas are hereby severally authorized and empowered, each for its respective institution or institutions, to construct, acquire and equip on behalf of such institution, buildings and other structures and additions to existing buildings and other structures and acquire land for said additions, buildings and other structures in any manner authorized by law, including the power of eminent domain exercised in the manner prescribed for any independent school district, if deemed appropriate by said governing body. Said constructions, equipping and acquisition may be accomplished in whole or in part with proceeds of loans obtained from any private or public source. The said governing boards are also severally authorized to enter into contracts with municipalities and school districts for the joint construction of said facilities. As amended Acts 1961, 57th Leg., p. 592, ch. 283, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

8. REGIONAL COLLEGE DISTRICTS

Art. 2815t. Creation and regulation of regional college districts

Bonds and notes; authorized investments

Sec. 15a. All bonds and notes issued pursuant to the authority here-in granted shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto. Added Acts 1961, 57th Leg., p. 495, ch. 238, § 1.

Emergency. Effective May 27, 1961.

CHAPTER SIXTEEN—FREE TEXTBOOKS

1. TEXTBOOK COMMISSION

Art. 2843. Uniform system

The State Board of Education shall select and adopt a multiple list of textbooks for the elementary grades of the public free schools of Texas, said multiple list to consist of not fewer than three (3) nor more than five (5) textbooks on the following subjects: spelling, reading (basal and supplementary), English language and grammar, geography, arithmetic, physiology-hygiene, civil government, driver education and safety, vocal music, elementary science, history of the United States (in which the



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

construction placed on the Federal Constitution by the fathers of the Confederacy shall be fairly represented), history of Texas, agriculture, a system of writing books, a system of drawing books, and may also, if deemed necessary, adopt a geography of Texas and a civil government of Texas; provided that none of said books shall contain anything of a partisan or sectarian character, and that nothing in this Act shall be construed to prevent the teaching of German, Bohemian, Spanish, French, Latin or Greek in any of the public schools, providing that textbooks on additional subjects may be supplied when such subjects have been approved for elementary schools by the State Department of Education.

Said State Board of Education shall also adopt a multiple list of books for use in the high schools of the state, said multiple list including not fewer than three (3) nor more than five (5) textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year world history, American history, Latin, Spanish, homemaking, physical geography, driver education and safety, vocal music, English composition, literature (including American literature and English literature), shop courses, physiology, the German, Czech, and French languages, agriculture, civil government, commercial arithmetic, bookkeeping, typewriting, shorthand and journalism. Free textbooks shall be provided for all other courses which have been accredited by the State Accrediting Committee and for which as many as ten thousand (10,000) pupils are enrolled according to reports from high schools to the Textbook Division of the State Department of Education which shall be taken annually at the close of each school year.

In each subject of the elementary and high school grades, one or more of the several textbooks of each multiple list adopted may be selected by local school officials; but when such is or are selected from the multiple lists, they shall be continued in use in that school system for the entire period of the adoption or for a minimum period of not less than five (5) years, providing that school officials for each separate independent district and each system of county schools or other schools subject to supervision by county boards of education shall select the same book or books for all of its schools. Supplementary readers for preprimer, primer, first, second, and third grades shall be distributed on a quota of not more than three hundred percent (300%) of the enrollment for each of the grades to which the book is assigned. Supplementary readers for grades four (4) through eight (8) shall be distributed on a quota basis not in excess of two hundred percent (200%) of the grade enrollment to which the books are assigned. Agricultural textbooks for grades nine (9) through twelve (12) shall be distributed on a quota basis not in excess of two hundred twenty percent (220%) of the grade enrollment to which the books are assigned.

All other books shall be supplied on the basis of one (1) book for each pupil enrolled in the subject for which the book is adopted and not to exceed the total enrollment for the subject plus the teachers copies.

Specific rules as to the manner of selection for all books on the multiple lists provided for in this Act shall be made by the State Board of Education.

The State Board of Education, as herein provided for, shall adopt textbooks in accordance with the provisions of this Act for every public free school in the state and no public free school in the state shall use any textbook unless same has been previously adopted and approved by this Board, and the Board shall prescribe rules under which all textbooks

adopted and approved shall be introduced or used by or in the public schools of the state.

In the event as many as three (3) suitable textbooks are not offered for adoption on any one (1) subject, the Board may select fewer than three (3) textbooks.

Existing contracts shall not be affected by any adoptions made under this Act. As amended Acts 1959, 56th Leg., p. 672, ch. 310, § 1; Acts 1961, 57th Leg., p. 228, ch. 117, § 1.

Emergency. Effective May 15, 1961.

#### CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art. 2919. Kindergartens; establishment and maintenance; petition; election

Section 1. The governing board of any school district in Texas is hereby authorized to establish and maintain as a part of the public free schools of said district one or more kindergartens for the training of children residing in said district who are under the scholastic age and who are at least five (5) years of age.

Sec. 2. The governing board of any school district shall, upon the petition of twenty per cent (20%) of the qualified voters residing within the school district, call an election within sixty (60) days of the filing of such petition to determine by a majority vote of the legally qualified voters residing in such district whether or not the district shall establish and maintain a kindergarten as a part of the public free schools of such district. Such petition shall be filed between April 1st and June 1st of any year. At such election the ballot shall have printed thereon the following:

“FOR public kindergarten” ; and

“AGAINST public kindergarten.”

If a majority of the votes cast at such election favor the exercise of the power herein granted, the governing board shall establish and maintain such kindergarten, or kindergartens, as such board deems in the best interests of the residents of the district as a part of the public free schools of the district for the training of children under the scholastic age down to and including five (5) years residing in the district, and shall establish such courses of training, study and discipline, and such rules and regulations governing such kindergartens as such board shall deem best. After voter approval of a kindergarten for a school district the governing board shall establish the kindergarten by the commencement date of the next scholastic year following the year in which the election is held. The cost of establishing and maintaining such kindergartens shall be paid from the special school tax of said districts. The kindergartens shall be a part of the public school system and shall be governed, as far as practicable, in the same manner and by the same officers as are or may be provided by law for the government of the other public schools of the State.

Sec. 3. If an election should be called and held hereunder in any school district and the proposition should fail to receive a majority of the votes cast, then no additional election shall be called on such proposition in such school district until at least one (1) year after the date that such prior election was held.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 4. This Act shall have no effect upon the validity or invalidity of any kindergarten presently existing in any school district in this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 132, ch. 29, § 1.

Emergency. Effective Aug. 18, 1961.

## CHAPTER TWENTY—TEACHERS' RETIREMENT

### Art. 2922—1. Teachers' Retirement System

#### Definition of Certain Words and Terms

Section 1. The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

18. "Military Duty" as used in this Act shall mean active duty rendered by a person in World War I and/or while a member of the Retirement System and during the time the United States was or is involved in organized conflict, whether in a state of war or in a police action involving conflict with foreign forces, and within a period of twelve (12) months thereafter: (a) in the Armed Forces of the United States or any of their auxiliaries, or in the Armed Forces Reserve of the United States or any of their auxiliaries, or in the American Red Cross, or in the Federal Bureau of Investigation, or Civil Service Librarian under a war service appointment, as a result of having volunteered or having been drafted or conscripted into such duty; and/or (b) in war work as a direct result of having been drafted or conscripted into said war work. The State Board of Trustees shall determine and by order define the period or periods which shall be recognized as involving organized conflict within the contemplation of this Act. As amended Acts 1961, 57th Leg., p. 74, ch. 43, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### Creditable Service

##### Sec. 4. 1. Prior Service Credits.

##### 4. Military Leave Credit.

Any member who has heretofore performed, or who may hereafter perform, a period of military duty, but who shall fail to make such deposits as to entitle him under the foregoing provisions to "membership former service credit" or to "current membership service credit" therefor, shall nevertheless be entitled to credit for each such year of military duty as a year of service, in determining his eligibility for retirement under this Act; but such period shall in no event be included in calculating the amount of benefits payable to such persons upon retirement, except that Military Duty in World War I shall be counted as prior service and such service shall be included in calculating retirement benefits. As amended Acts 1961, 57th Leg., p. 899, ch. 397, § 1.

Emergency. Effective June 17, 1961.

#### Death and Survivor Benefits

##### Sec. 7. 1. Designation of Surviving Beneficiaries.

Any member may, by written designation in such form as the State Board of Trustees may prescribe, provide that the benefits payable under this Act in event of his death shall be paid to the designated beneficiary named therein. The member may change the designated beneficiary, or

revoke a designation previously made, by filing with the State Board of Trustees, in such form as the Board may require, a notice of such change or revocation.

2. Death Benefits.

(a) If a member shall die before retirement and during any school year in which he is in service, there shall be paid to his designated beneficiary the greatest of the following amounts, payable at the election of the designated beneficiary, and in such manner as the Board by rule may prescribe:

(1) The annual compensation of the member for the preceding school year; or

(2) The rate of annual compensation of the member for the current school year; or

(3) Sixty (60) monthly payments of the same amount as the monthly installments of a standard annuity (calculated as provided in subsection 22 of Section 1); or,

(4) An annuity payable for life of the said designated beneficiary, which would have been payable to the designated beneficiary had the member retired on the thirty-first day preceding his death upon a lower benefit payable for life of the member, with a like amount payable throughout the life of the designated beneficiary; or

(5) The accumulated contributions standing to the account of the member in the Teacher Savings Fund.

(b) If a member shall die during an absence from service, there shall be payable to his designated beneficiary:

(1) If the absence of the member from service is due to sickness or accident or other cause which the State Board of Trustees shall determine was not voluntary or was in furtherance of the objectives of or welfare of the public school system, the same benefits payable upon the death of a member in active service; or

(2) If the absence of the member from service was not the result of sickness or accident or other justifiable cause as above defined, then there shall be paid to his designated beneficiary the accumulated contributions standing to the individual account of the member.

(c) If a member shall be retired upon a disability retirement benefit, and while drawing such annuity shall die, there shall be paid to his designated beneficiary the same death benefit which would have been paid had the deceased been in active service at death, less the sum total of disability payments theretofore made to the deceased.

3. Survivor Benefits.

(a) After a teacher member shall have completed one year of creditable service after the effective date of this Act, if he shall die before retirement, his designated beneficiary (if eligible and otherwise entitled to a death benefit other than return of the accumulated contributions of the member), may elect, in lieu of the applicable death benefit authorized under the preceding subsections, to receive the applicable of the following survivor benefits plus a lump-sum payment of Five Hundred Dollars (\$500.00), viz:

(1) If such designated beneficiary is the widow, dependent widower, or dependent parent of the deceased, said designated beneficiary may elect to receive for life a monthly benefit of Seventy-five Dollars (\$75.00), commencing immediately if said beneficiary is sixty-five (65) years of age or more, or commencing at age sixty-five (65) if said beneficiary is less than sixty-five (65) at the time of such election; or

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(2) If such designated beneficiary is the widow or dependent widower of the deceased, and has one or more children under eighteen (18) years of age, said beneficiary may elect to receive a monthly benefit of One Hundred Fifty Dollars (\$150.00) until the youngest child attains the age of eighteen (18) years, and thereafter all payments shall cease until said widow or dependent widower attains age sixty-five (65), following which he shall receive a monthly benefit of Seventy-five Dollars (\$75.00); or

(3) If such designated beneficiary or beneficiaries are dependent children of the deceased, and they are under the age of eighteen (18) years, they may, upon election of their guardian, elect to receive a monthly benefit of One Hundred Fifty Dollars (\$150.00) per month so long as there are two or more such children under eighteen (18) years of age, and thereafter when there is only one child remaining under eighteen (18) years of age to receive Seventy-five Dollars (\$75.00) per month until said youngest child attains eighteen (18) years; Provided, that if the designated beneficiary is a widow, dependent widower, or dependent parent of the deceased, the benefits payable under paragraphs (1) and (2) of this subsection shall cease upon his death or remarriage, but in such an event there shall begin to be paid in lieu of the terminated benefits, the benefits authorized under paragraph (3), if then applicable.

(b) After an auxiliary employee member shall have completed one year of creditable service after the effective date of this Act, if he shall die before retirement, his designated beneficiary shall be entitled to the same elections as are under the provisions of the foregoing subsection 1, except that the monthly benefits shall be two-thirds of the amounts allowed to surviving beneficiaries of deceased teacher members.

(c) If a member shall die subsequent to his retirement, the designated beneficiary surviving him shall be entitled to the same survivor benefits as are authorized to be paid to designated beneficiaries who survive members who are in active service at death; and moreover, any benefit payable to the designated beneficiary under the service retirement option elected by the deceased shall not be forfeited or changed because of any election as to survivor benefits selected by such designated beneficiary; and provided further, that the lump-sum payment of Five Hundred Dollars (\$500.00) shall be paid to such designated beneficiary regardless of eligibility for survivor benefits, or for any other death benefit payments.

(d) In the event the member of the Retirement System fails to nominate a designated beneficiary, or in the event the designated beneficiary predeceases the member and there is no designation effective at date of death, then in such event the death benefits and right of election as to survivor benefits shall pass to and vest in the following persons, in the order following:

(1) To the surviving widow, or surviving dependent widower of the deceased;

(2) To the children of the deceased, in equal portions;

(3) To a dependent parent, or parents, in equal portions; and if there be no such survivors, then the accumulated contributions of the member shall be paid to his estate, or to his heirs, in full and complete discharge of all claims for death and survivors benefits hereunder.

4. In the event the designated beneficiary is other than a surviving widow, widower, child, brother, sister, or parent of the deceased, or other person financially dependent upon the deceased, the benefits payable to beneficiary under the provisions of this Act shall be limited to the accumu-

lated contributions and interest in the member's teacher savings fund account. As amended Acts 1961, 57th Leg., p. 903, ch. 401, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 2922—1b. Re-employment of retired teachers**

**Section 1.** Any person retired from service under the Teacher Retirement System of Texas and receiving benefits under the System may be employed, on a part-time, day-to-day, basis only, as a substitute teacher in the public schools or in fully or partly State-supported institutions of higher education for a period not to exceed eighty (80) days in a single school year without affecting existing benefits under the Retirement System, including the right to receive retirement allowance. Any such person who reports for duty as a substitute teacher during any day and works any portion of the day, shall be considered to have taught one day. The substitute employment does not entitle the person to additional creditable service under the Retirement System.

**Sec. 1a.** Any person receiving service retirement under the Teacher Retirement System of Texas and who is over sixty-five (65) years of age may be employed as a teacher by a State-supported college or university in this State on as much as a one-third time basis, which shall in no event exceed six (6) semester hours. This employment of a person receiving service retirement shall not affect his right to continue to receive benefits under the Teacher Retirement System of Texas. However, this employment does not entitle the person to receive addition creditable service under the Teacher Retirement System of Texas and the person so employed shall not be required to make further contributions to the Teacher Retirement System of Texas.

**Sec. 2.** Any retired person who exceeds eighty (80) days of substitute teaching or who is again employed in any position in the public schools of Texas shall, except as provided in Section 1 above, forfeit all retirement benefits for any month in which such employment occurs. Acts 1959, 56th Leg., p. 53, ch. 28, § 1, as amended Acts 1961, 57th Leg., p. 682, ch. 318, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM**

- Art.**  
 2922—13b. Additional professional units to districts reporting increases in average daily attendance [New].  
 2922—13c. Allotment of professional units to districts operating four-year high school with average daily attendance between 84 and 156 pupils [New].  
 2922—16b. State University—owned lands; definition [New].  
 2922—16c. Transfer of money from permanent school fund to available school fund [New].

- Art.**  
 2922—16d. Method of payments to districts; adjustments in estimates; payment of increased salary to professional employees [New].  
 2922—21a. Requiring or coercing teachers to join groups, clubs, committees or organizations; political affairs [New].  
 2922—21b. Employment of supervisor or counsellor as condition precedent to receipt of funds [New].

**Art. 2922—13. Units**

Additional units to districts reporting increase in average daily attendance, see art. 2922—13b.

County-wide day schools for the deaf, see art. 3222b.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 2922—13b. Additional professional units to districts reporting increases in average daily attendance**

Section 1. In addition to the allocation of professional units as provided in Section 1, Article III of Senate Bill No. 116, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, as amended, the Central Education Agency shall allot additional professional units to those districts reporting increases in average daily attendance. On or before July 1 of each school year any district desiring to receive additional units on the basis of increased average daily attendance shall submit a report to the Central Education Agency giving the average daily attendance earned during the then current school year. Adjustments in classroom teacher units and other professional units and the attendant operational allotments shall be made to these districts reporting increases on the basis of the formulas set out in such Foundation School Program Act. Provided, however, that the provisions of this Act shall not be in full force and effect until the school year beginning September 1, 1963. Acts 1961, 57th Leg., p. 838, ch. 374.

Effective September 1, 1963.

Professional units, see art. 2922—13.

**Title of Act:**

An Act to provide for the allocation of professional units to districts reporting in-

creases on the basis of current average daily attendance; providing a repealing and severability clause; and declaring an emergency. Acts 1961, 57th Leg., p. 838, ch. 374.

**Art. 2922—13c. Allotment of professional units to districts operating four-year high school with average daily attendance between 84 and 156 pupils**

Beginning with the school year 1961-62, the number of professional units allotted to school districts which operate and have operated for at least three (3) consecutive years a four-year accredited high school and having an average daily attendance range between eighty-four (84) and one hundred fifty-six (156) for the immediate preceding year shall be based on the following formula:

(a) A school district having from eighty-four (84) to one hundred six (106) pupils, inclusive, in average daily attendance shall be allotted six (6) classroom teacher units and a superintendent unit.

(b) A school district having one hundred seven (107) to one hundred fifty-six (156) pupils, inclusive, shall be allotted seven (7) classroom teacher units and a superintendent unit. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 7.

Emergency. Effective August 18, 1961.

Sections 1-4 of the Act of 1961 amended articles 2922—14 to 2922—16. Section 5 is classified as article 2922—16c, section 6 as article 2922—16d, section 8 as article 2922—

21a, section 9 as article 2922—21b. Section 9A of the Act appropriated money for the biennium ending August 31, 1963. See note under article 2922—16.

**Art. 2922—14. Salaries**

**Salary Schedules**

Section 1. Beginning with the school year of 1961-62, the Board of Trustees of each and every school district in the State of Texas shall pay their teachers upon a salary schedule providing a minimum beginning base salary, plus increments above the minimum for additional experience in teaching as hereinafter prescribed. The salaries fixed herein shall be

regarded as minimum salaries only and each district may supplement such salaries.

All teachers and administrators shall have a valid Texas Certificate. Salary increments for college training shall be based upon training received at a college recognized by the State Commissioner of Education for the preparation of teachers.

Provided that payment of at least the minimum salary schedule provided herein shall be a condition precedent: (1) to a school's participation in the Foundation School Fund; and (2) to its name being placed or continued upon the official list of affiliated or accredited schools. The annual salaries as provided herein may be paid in twelve (12) payments at the discretion of the local school boards.

For the 1961-62 school year only the annual salaries as provided herein may be paid in such payments as are approved by the local school boards, provided, however, that no monthly payment shall be less than eighty (80%) per cent of the annual salary as provided in this Section divided by the number of monthly payments to be made in the school year, and further provided, that the annual salary for the school year 1961-62 of each professional position shall not be less than the annual salary provided herein.

The salary of each professional position listed in Section 2 of Article II of this Act shall be determined as follows:

1. Classroom Teachers. The annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months in the term.

a. The minimum base pay for a classroom teacher who holds a Bachelor's Degree and no higher shall be Four Hundred Forty-six Dollars (\$446) per month. Six Dollars (\$6) per month shall be added for each year of experience earned prior to 1961-62, but not to exceed Seventy-two Dollars (\$72), and Twelve Dollars (\$12) per month shall be added for each year of teaching experience earned subsequent to 1960-61, but not to exceed a total of One Hundred Twenty Dollars (\$120) per month.

b. The minimum base pay for a classroom teacher who has less than a Bachelor's Degree shall be Three Hundred Thirteen Dollars (\$313) per month. Six Dollars (\$6) per month shall be added for each year of experience earned prior to 1961-62, but not to exceed Seventy-two Dollars (\$72), and Twelve Dollars (\$12) per month shall be added for each year of teaching experience earned subsequent to 1960-61, but not to exceed a total of One Hundred Twenty Dollars (\$120) per month.

c. The minimum monthly base pay for a classroom teacher who holds a Master's Degree shall be Four Hundred Seventy-one Dollars (\$471) per month. Six Dollars (\$6) per month shall be added for each year of experience earned prior to 1961-62, but not to exceed One Hundred Fifty-six Dollars (\$156), and Twelve Dollars (\$12) per month shall be added for each year of teaching experience earned subsequent to 1960-61, but not to exceed a total of Two Hundred Four Dollars (\$204) per month.

2. Vocational Teachers.

a. The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a nine (9), ten (10), or twelve (12) months vocational program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

herein; provided that vocational trade and industrial teachers have qualifications approved by the State Board of Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized Bachelor's Degree and a valid teacher's certificate.

The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), or twelve (12) as applicable.

Provided that the minimum salaries hereinabove prescribed for vocational teachers mean total salaries of such teachers to be received for public school instruction, whether they be paid out of state and/or Federal funds. Provided, further that none of the provisions of this Act shall apply to teachers in distributive adult education.

Expenses where allowable shall be paid from a separate Vocational Fund. No such expense shall be counted as part of the cost of the Minimum Foundation School Program.

3. Special Service Teachers. The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as those provided herein for classroom teachers. The annual salary of such teachers shall be the monthly base salary plus increments, multiplied by nine (9).

Provided that a registered nurse shall be considered, for the purpose of computing salaries, as having a Bachelor's Degree; and that a librarian having a recognized certificate or degree based upon five (5) years of recognized college training therefor shall be considered as having a Master's Degree.

4. Teachers of Exceptional Children. The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as that prescribed in this Act for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9), except that in cases where the State Commissioner of Education approves such a unit for more than nine (9) months, the annual salary shall be the monthly base salary, plus increments, multiplied by the number of months approved by the State Commissioner of Education.

5. Supervisors and/or Counsellors. The minimum monthly base salary and increments for teaching experience for supervisors or counsellors shall be the same as that prescribed in this Act for classroom teachers to which shall be added Thirty Dollars (\$30) per month. The annual salary for such supervisors or counsellors shall be the monthly base salary, plus increments, multiplied by ten (10).

6. Principals.

a. The minimum monthly base salary and increments for teaching experience for full-time principals shall be the same as that prescribed in this Act for classroom teachers, to which shall be added twenty (20%) per cent as an administrative increment. The annual salary for such full-time principals shall be the monthly base salary, plus increments, multiplied by eleven (11).

b. The classroom teacher who serves as part-time principal on a campus to which are assigned seven (7) or more classroom teacher units shall receive an additional salary allowance equal to fifteen (15%) per cent of his salary. The annual salary of a part-time principal shall be the monthly base salary, plus increments multiplied by nine and one-half (9½).

c. The classroom teacher who serves as a part-time principal on a campus to which are assigned three (3) to six (6) classroom teacher units

shall receive an additional salary allowance equal to eight (8%) per cent of his salary. This part-time principal shall be designated 'head teacher.' In addition to the allotment of part-time principals as provided in Article III, Section 1, Subsection 6, districts containing an accredited high school and having fewer than nine (9) classroom teacher units shall be granted one (1) head teacher. The annual salary of such a part-time principal shall be the monthly base salary, plus increments, multiplied by nine (9).

7. Superintendents.

a. The minimum monthly base salary and increments for teaching experience for superintendents shall be the same as that provided in this Act for classroom teachers, to which shall be added an administrative increment on the basis of the following formula: districts eligible for fewer than sixteen (16) classroom teacher units, twenty (20%) per cent; sixteen (16) to forty-nine (49) classroom teacher units, twenty-five (25%) per cent; fifty (50) to ninety-nine (99) classroom teacher units, thirty (30%) per cent; one hundred (100) to one hundred forty-nine (149) classroom teacher units, thirty-five (35%) per cent, and one hundred fifty (150) or more classroom teacher units, forty (40%) per cent.

b. The annual salary for superintendents shall be the monthly base salary, plus increments, multiplied by twelve (12).

**Total Cost of Professional Salaries**

Sec. 2. The total cost of professional salaries of positions allowable for purposes of this Act shall be determined by application of the salary schedule to the total number of approved professional units, provided that such professional units are serviced by approved professional position employments. As amended Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 5, § 1; Acts 1955, 54th Leg., p. 1152, ch. 436, § 1; Acts 1957, 55th Leg., p. 1165, ch. 390, § 1; Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 1.

Emergency. Effective August 18, 1961.

Sections 2-4 of the amendatory Act of 1961 amended articles 2922-15, 2922-16. Section 5 is classified as article 2922-16c; Section 6 as 2922-16d; section 7 as arti-

cle 2922-13c and section 8 as article 2922-21a. Section 9A appropriated money for the biennium ending Aug. 31, 1963. See note under article 2922-16. Section 10 contained a severability clause.

Art. 2922—15. Services and operating costs

**Services. Current Operating Costs**

Section 1. The total current operating cost for each school district, other than professional salaries and transportation, shall be determined by multiplying the number of approved classroom teacher units and exceptional children teacher units by Six Hundred Dollars (\$600) and grants therefor shall be allotted. As amended Acts 1953, 53rd Leg., p. 604, ch. 241, § 1; Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 2.

Emergency. Effective August 18, 1961.

**Services, transportation**

Sec. 2.

(2) The total annual transportation cost allotment for each district or county shall be based on the following formula:

(a) A typical bus route is defined as being from forty-five (45) to fifty-five (55) miles of daily travel and composed of sixty (60%) per cent surfaced roads and forty (40%) per cent dirt roads, over which fifteen (15) or more pupils who live two (2) or more miles from school are transported. As amended. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 3.

Emergency. Effective August 18, 1961.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(b) Allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

72 capacity bus	\$2,730 per year
60-71 capacity bus	2,630 per year
49-59 capacity bus	2,530 per year
42-48 capacity bus	2,430 per year
30-41 capacity bus	2,330 per year
20-29 capacity bus	2,230 per year
15-19 capacity bus	1,830 per year

The capacity of a bus shall be interpreted as the number of eligible children being transported who live two (2) or more miles from school along the approved route served by the bus. A bus that makes two (2) or more routes or serves two (2) or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time. As amended Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 3.

Emergency. Effective August 18, 1961.

#### Art. 2922—16. Finances

##### Financing school foundation program

Section 1. The Foundation School Program established in this Act shall be financed by:

- a. An equalized local school district effort to the extent hereinafter provided toward the support of this program;
- b. Distribution of the State and County Available School Funds on the basis of the number of scholastics; and
- c. Allocation to each local district a sum of state money appropriated for the purposes of this Act sufficient to finance the remaining costs of the Foundation School Program in that district computed and determined in accordance with the provisions of this Act. As amended Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 4.

Emergency. Effective August 18, 1961.

##### Total local school funds to be charged to all school districts in the state

Sec. 2. The sum of the amounts to be charged for the 1961-62 school year against the local school districts of the state toward such Foundation School Program shall be Ninety-four Million Dollars (\$94,000,000). For the 1962-63 school year, and for each school year thereafter, the sum of the amounts to be charged against the local school districts of the state toward such Foundation School Program shall be twenty (20%) per cent of the estimated total cost of the Foundation School Program for the immediately preceding school year. At its regular meeting in March, 1962, and at each regular meeting in March thereafter, the State Board of Education after receiving the recommendation of the State Commissioner of Education, shall estimate the total cost of the Foundation School Program for the then current school year, based upon laws and approved school budgets in effect on the date when such estimate is made. Within thirty (30) days after such estimate has been made, the State Commissioner of Education, subject to the approval of the State Board of Education, shall assign each school district according to its taxpaying ability as determined in this Act, its proportionate part of such total to be raised locally for the next school year and applied towards the financing of its minimum Foundation School Program. As amended

Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 5, § 2; Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 4.

Emergency. Effective August 18, 1961.

#### **Local funds available in each county**

Sec. 4. For the school year beginning 1962-63 and each school year thereafter, the State Commissioner of Education shall calculate and determine the total sum of local funds that the school districts of a county shall be assigned to contribute toward the total cost of the Foundation School Program by multiplying twenty (20%) per cent of the estimated Foundation Program cost for the immediate preceding school year, as determined under the provisions of this Act, by the economic index determined for each county. The product shall be regarded as the local funds available in each respective county toward the support of the Foundation School Program and shall be used in calculating the portion of said amount which shall be assigned to each school district in the county. As amended Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 5, § 3; Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 4.

Emergency. Effective August 18, 1961.

#### **Falsification of records; report**

Sec. 4A. When, in the opinion of the Director of School Audits of the Texas Central Education Agency, audits or reviews of accounting, enrollment or other records of a school district reveal deliberate falsification of such records, or violation of the provisions of this Act, whereby that district's share of state funds allocated under authority of this Act would be, or has been, illegally increased, said Director of School Audits shall promptly and fully report such fact direct to the State Board of Education and to the State Auditor. In the event of over-allocation of such funds, as determined by the State Board of Education or the State Auditor by reference to the report of the Director of School Audits, the Texas Central Education Agency shall, by withholding from subsequent allocations of state funds, recover from said district an amount, or amounts, equal to the over-allocation. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 4.

Emergency. Effective August 18, 1961.

#### **Local funds to be charged to each district**

Sec. 5. The State Commissioner of Education shall determine the amount of local funds to be charged to each school district and used therein toward the support of the Foundation School Program, which amount shall be calculated as follows:

Divide the state and county assessed valuation of all property in the county subject to school district taxation for the next preceding school year into the state and county assessed valuation of the district for the next preceding school year, finding the district's percentage of the county valuation. Multiply the district's percentage of the county valuation by the amount of funds assigned to all of the districts in the county. The product shall be the amount of local funds that the district shall be assigned to raise toward the financing of its Foundation School Program.

Provided, however, that in any district containing state university-owned land, state-owned prison land, federal-owned forestry land, federal-owned military reservations or federal-owned Indian reservations, the amount assigned to such school district shall be reduced in the propor-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tion that the area included in the above-named classification bears to the total area of the district. Provided further, that no local fund assignment shall be charged to the Boys Ranch Independent School District in Oldham County, Texas.

Provided that if the revenue that would be derived from the legal maximum local maintenance school tax is less than the amount that is assigned to a school district according to the economic index, and if such property valuation is not less than said property is valued for state and county purposes such lesser amount shall be the amount assigned to be raised by such school district.

Provided further, that if a school district is unable or for any reason failed to collect local maintenance school funds equal to the amount assigned to it as determined by this Act, such failure will not make the district ineligible for full state per capita apportionment and full Foundation School Fund grants, but the amount as determined by this Act shall be charged against the district as budgetary receipts whether such amount is collected or not.

Provided that the amount of local funds assigned to a contract district, as provided for in Article III of this Act,<sup>1</sup> shall be assigned to the receiving district and all local taxes, except those required for the interest and sinking fund, shall be credited as collected to the receiving school district.

If a district other than such a contract district has no school, the amount of local funds assigned to such district shall be assigned for the current year to the receiving district in which such children attend school and the local tax funds collected shall be transferred to such receiving district; provided that if pupils from such a district attend schools in more than one receiving district, such local fund assignment and local tax funds shall be divided for the current year between such receiving districts proportionately according to the number of transfers to each receiving district.

If any school district which has a budgetary income, as provided in Article VI, Section 1, Subsections a and b, in excess of the amount needed to operate a Minimum Foundation School Program as provided herein and transfers pupils to another district, such sending district shall pay a proportionate part of such excess based upon the ratio of the number transferred to the number of enumerated scholastics, to the district or districts to which such pupils are transferred, and such amount shall be charged to the receiving school.

The sum of the amounts assigned to the several portions of a countyline school district shall be the amount assigned to be raised by such district toward the financing of its Foundation School Program.

The County Tax Assessor-Collector in each county, in addition to his other duties prescribed by law, shall certify to the State Commissioner of Education in Austin, Texas, not later than December 1st of each year, the following information:

- (1) The assessed valuation, on a state and county valuation basis, of all property subject to school district taxation in each school district or portion of school district in such county, and the total assessed valuation of all property subject to the school district taxation in the county;
- (2) The total area of each school district; and
- (3) The area within each school district comprised of state university-owned land, state-owned prison land, federal-owned forestry land,

federal-owned military reservations, and federal-owned Indian reservations.

Should any County Tax Assessor-Collector fail to submit such certificates to the State Commissioner of Education as provided for herein, the State Comptroller of Public Accounts is hereby directed to submit such information, estimating when necessary. As soon after the receipt of such certificates as practicable, and prior to the time that the respective tax rates for the school districts of the county have been set, the State Commissioner of Education shall notify each school district as to the amount of local funds that such district is assigned to raise for the succeeding school year.

If there has been a marked increase or decrease in the assessed valuation of a school district within a county, and if the County School Board certifies that the use of the county and school district valuations for the preceding year in determining local fund assignments to the school districts in the county would be inequitable, and recommends a different distribution of the county total than that made by the State Commissioner of Education, such recommendations, subject to the approval of said Commissioner, shall become and be the lawful fund assignments to such districts.

Provided further, that any local maintenance funds in excess of the amount assigned to a district as determined by this Section may be expended for any lawful school purpose or it may be carried over as a balance into the next school year. As amended Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 5, § 4; Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 4.

Emergency. Effective August 18, 1961.

Section 9A of the Act of 1961 provided: "Sec. 9A. In addition to the appropriation made from the Foundation School Fund by Senate Bill No. 1, [ch. 62] Acts of the 57th Legislature, First Called Session, 1961, and supplemental thereto, there is appropriated for the biennium ending August 31, 1963, all monies allocated to the Foundation School Fund by Senate Bill No. 117, Chapter 335, Acts of the 51st Legislature,

1949, as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year to pay the state's part of the Foundation School Program as provided for in Chapter 334, Acts of the 51st Legislature, 1949, as last amended by this Act."

Allocation of revenue derived from gross receipts taxes to foundation school fund, see art. 7083a, § 2(4-a).

**Art. 2922—16b. State University-owned lands; definition**

In determining the amount of local funds to be charged to each school district and used therein toward the support of the Foundation School Program, State University-owned lands as set out in the Foundation School Program Act is hereby defined to include also state-owned land located in Brazos County and devoted to the use of the Agricultural and Mechanical College of Texas. Acts 1961, 57th Leg., p. 22, ch. 12, § 1.

Emergency. Effective February 24, 1961.

Title of Act:

An Act defining State University-owned lands as used in the Foundation School Program Act to include certain land owned

and used by the Agricultural and Mechanical College of Texas; and declaring an emergency. Acts 1961, 57th Leg., p. 22, ch. 12.

**Art. 2922—16c. Transfer of money from permanent school fund to available school fund**

The State Comptroller of Public Accounts is hereby directed to transfer to one (1%) per cent of the total value of the Permanent School Fund to the Available School Fund for the support of public schools. But such amount shall not exceed the amount necessary to cover the deficit for the

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

needs of this Act as computed by the Comptroller on the date of transfer, and no transfer shall be made if there is no deficit. The value of the Permanent School Fund shall be ascertained by the Commissioner of Education. Such transfer shall be made August 31, 1961, January 31, 1962, and January 31, 1963; provided, that no such transfer shall exceed the income from oil, gas, and mineral lease bonuses and annual delay rentals received during the previous fiscal year. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 5.

Emergency. Effective August 18, 1961.

Sections 1-4 of the Act of 1961 amended articles 2922-14 to 2922-16. Section 6 of the Act is classified as article 2922-16d, section 7 as article 2922-13c, section 8 as

article 2922-21a, and section 9 as article 2922-21b. Section 9A of the Act appropriated money for the biennium ending August 31, 1963. See note under article 2922-16.

**Art. 2922—16d. Method of payments to districts; adjustments in estimates; payment of increased salary to professional employees**

The increased cost of the Foundation Program for the 1961-62 school year resulting from the amended formulas in this Act shall be paid to the participating Foundation Program districts in two payments: One payment representing fifty (50%) per cent of the additional funds provided under the provisions of this Act shall be paid March 1, 1962. The second payment of fifty (50%) per cent of the additional funds earned under the provisions of this Act shall be paid June 1, 1962.

Provided further, that the Foundation Program Budget Committee shall, prior to March 1, 1962, and prior to June 1, 1962, make the necessary adjustments in the Foundation Program estimates to permit the Comptroller to transfer the additional funds required to the Foundation Program Fund.

Provided further, that for the school year beginning September 1, 1962, and thereafter, the annual cost of the Foundation Program as determined under the provisions of this Act shall be included in the estimates of the Foundation Program Budget Committee, and the funds allocated to each district shall continue to be paid in accordance with the provisions of Senate Bill No. 117, Acts of the 51st Legislature, 1949, Chapter 335.<sup>1</sup>

Provided that each approved professional employee listed on the 1961-62 Foundation Program roster of an eligible foundation program school district shall receive fifty (50%) per cent of the additional salary provided him under the new salary schedule included in this Act on March 1, 1962, and the remaining fifty (50%) per cent of his increase shall be paid to him on June 1, 1962.

Provided, however, that any local school district may begin payment of the new salary schedule at the beginning of the school year.

Provided further, that those professional personnel who are employed for a portion of a school year shall receive their pro rata share of the increase. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 6.

<sup>1</sup> Article 7083a, subs. 4-a.

Emergency. Effective August 18, 1961.

Sections 1-4 of the Act of 1961 amended articles 2922-14 to 2922-16. Section 5 of the Act is classified as article 2922-16c, section 7 as article 2922-13c, section 8

as article 2922-21a and section 9 as article 2922-21b. Section 9A of the Act appropriated money for the biennium ending August 31, 1963. See note under article 2922-16.

Art. 2922—21a. Requiring or coercing teachers to join groups, clubs, committees or organizations; political affairs

No school district, Board of Education, superintendent, assistant superintendent, principal, or other administrator, benefiting by the funds provided for in this Act, shall directly or indirectly require, or coerce any teacher to join any group, club, committee, organization, or association.

It shall be the responsibility of the State Board of Education to enforce the provisions of this Section.

It shall be the responsibility of the State Board of Education to notify every superintendent of schools in every school district of the state of the provisions of this Section.

No school district, Board of Education, superintendent, assistant superintendent, principal, or other administrator shall directly or indirectly coerce any teacher to refrain from participating in political affairs in his community, state or nation. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 8.

Emergency. Effective August 18, 1961.

Sections 1-4 of the Act of 1961 amended articles 2922—14 to 2922—16. Section 5 is classified as article 2922—16c, section 6 as article 2922—16d, section 7 as article 2922—

13c and section 9 as article 2922—21b. Section 9A of the Act appropriated money for the biennium ending Aug. 31, 1963. See note under article 2922—16

Art. 2922—21b. Employment of supervisor or counsellor as condition precedent to receipt of funds

No rule, policy regulation or other plan shall be promulgated by the Central Education Agency, the Texas Education Agency, State Board of Education or other Agency which shall require as a condition precedent to the receipt of any funds hereunder, the employment of any supervisor or counsellor by any school district. Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 9.

Emergency. Effective August 18, 1961.

Sections 1-4 of the Act of 1961 amended articles 2922—14 to 2922—16. Section 5 is classified as article 2922—16c, section 6 as 2922—16d, section 7 as article 2922—13c,

and section 8 as article 2922—21a. Section 9A appropriated money for the biennium ending August 31, 1963. See note under article 2922—16.



## ELECTION CODE

### CHAPTER TWO—TIME AND PLACE

#### Art. 2.01. Time and Place

A general election shall be held on the first Tuesday after the first Monday in November, A.D. 1952, and every two (2) years thereafter, at such places as may be prescribed by law after notice as prescribed by law. Special elections shall be held at such times and places as may be fixed by law providing therefor. In all elections, general, special, or primary, the polls shall be open from seven o'clock a. m. to seven o'clock p. m. in all counties having a population of one hundred thousand (100,000), or more, according to the last Federal Census; provided however, that in all counties having a population of one million (1,000,000), or more, according to the last Federal Census, the polls may be opened one hour earlier at six o'clock a. m. on order or resolution of the Commissioners Court of such counties and entered in the minutes thereof, and in all other counties the polls shall be opened at eight o'clock a. m. and remain open until seven o'clock p. m. The election shall be held for one day only. As amended Acts 1961, 57th Leg., p. 125, ch. 68, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

### CHAPTER FOUR—ORDERING ELECTIONS

Art.  
4.11 Special Elections for United States  
Representative [New].

#### Art. 4.10. Vacancy: Application to get on Ballot

Section 1. Any person desiring his name to appear upon the official ballot at any special election held for the purpose of filling a vacancy, when no party primary has been held, may do so by presenting his application to the proper authority. Such application shall set forth:

- (a) The name of the office sought;
- (b) His occupation, his postoffice address, and the county of his residence;
- (c) His age, place of birth, kind of citizenship, and length of residence in the county and state."

Sec. 2. Such application must be filed not later than thirty (30) days before any such special election, and must be accompanied with a fee of One Dollar (\$1) if a city office, Five Dollars (\$5) if a district or county office, or the office of Congressman-at-Large, and One Thousand Dollars (\$1,000) if a state-wide office. Such fees shall be deposited in the general fund of the city, county, or the state as the case may be.

Sec. 3. The application must be filed with the Secretary of State in the case of a state or district special election and with the City Secretary in the case of a municipal election. The Secretary of State shall upon receipt of the application which conforms to the above requirements, issue his instruction to the county clerks of this state, or of the

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district in the case of the district vacancy, directing that the name of the applicant shall be printed on the official ballot in the column under the title of the office for which he is a candidate.

Sec. 4. The ballot in such special elections shall not bear any party designations but shall be printed otherwise as indicated in Section 61, and shall be marked as indicated in Section 62.<sup>1</sup> As amended Acts 1961, 57th Leg., p. 976, ch. 424, § 1.

<sup>1</sup> Article 6.06.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 4.11. Special Elections for United States Representative**

Section 1. In any special election called to fill a vacancy in the office of United States Representative in any congressional district of the state, a majority vote of the electors participating in the election shall be necessary for election. In event no candidate receives a majority of the votes cast at the first election, the Governor shall, within five (5) days after the results of the election are officially declared, call a second election to be held on a specified day which shall be not less than thirty (30) nor more than forty (40) days after the date of the proclamation or order calling the election. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election.

Sec. 1a. In any special election called to fill a vacancy in the office of United States Representative in any congressional district of the state, the filing fee shall be Five Hundred Dollars (\$500.00).

Sec. 2. Whenever there shall be held a special election in any congressional district in this state for the election of United States Representative, the Commissioners Court of each county in such district shall meet within three (3) days after such election is held and canvass the returns thereof; provided, however, that where such special election is held in conjunction with a general election, the Commissioners Court may canvass the returns of the special election at the same time that it canvasses the returns of the general election.

Sec. 3. When a special election shall have been held for United States Representative in any district, the county judge of each county in which such election was held shall, within twenty-four (24) hours after the Commissioners Court shall have opened the returns and canvassed the result, as provided in Section 2 of this Article, make out duplicate returns of the election, one of which he shall immediately transmit to the seat of government of the state, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for \_\_\_\_\_ County, for \_\_\_\_\_," (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held); and the other of such returns shall be deposited in the office of the county clerk of the county where such election was held. On the seventh day after the election, the day of election excluded, or as soon thereafter as possible, the Secretary of State, in the presence of the Governor or someone authorized by him to act in his stead and the Attorney General or someone authorized by him to act in his stead, shall open and canvass the returns of the election and declare the results thereof; provided, however, that where such special election is held in conjunction with a general election, the Secretary of State may canvass the returns of the special election at the same time he canvasses the returns of the general

election. If any person received a majority of the votes cast at the election, the Governor shall immediately make out, sign and deliver a certificate of election to such person for the unexpired term of the office for which he was a candidate. In event no candidate received a majority of the votes cast at the election, the Governor shall call a second election as provided in Section 1 of this Article; and the Secretary of State shall within five (5) days after the results of the first election are officially declared, certify to the county clerk of each county in the district, the names of the two (2) candidates who are eligible to participate in the second election and the clerks shall make up the ballot for election according to the certificate. The returns of the second election shall be canvassed and the results declared in the same manner as herein provided for the first election, and the Governor shall issue to the candidate who receives the largest number of votes in the second election a certificate of election to the unexpired term of the office for which he was a candidate.

Sec. 4. The provisions of this Article shall not apply to special elections for the office of Congressman-at-Large called and held in accordance with Article 177 of this Code (Article 12.02, Vernon's Texas Election Code).

Sec. 5. All special elections called for the purpose of filling vacancies in the offices to which this Article applies shall be conducted according to existing law or supplemented by this Article, but if there is a conflict between this Article and the existing law, the provisions of this Article shall prevail. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 32b added Acts 1961, 57th Leg., 2nd C.S., p. 512, ch. 2, § 1.

Effective 90 days after Aug. 14, 1961.  
date of adjournment.

## CHAPTER FIVE—SUFFRAGE

### Art. 5.17. Certificates of exemption based on nonage and nonresidence

As a condition to voting, any person who is in other respects a qualified voter and who is exempt from the payment of a poll tax by reason of the fact that he had not yet reached the age of twenty-one (21) years or was not a resident of this State on the first day of January preceding its levy, must have obtained from the tax collector of the county of his residence a certificate of exemption from the payment of a poll tax not later than thirty (30) days before any election at which he wishes to vote; provided, however, that a person who obtains an exemption certificate at any time before the first day of February for use during the ensuing voting year may vote at any election held after the beginning of the voting year if he is otherwise eligible to vote at the time of the election. No such person who has failed or refused to obtain such certificate of exemption shall be allowed to vote.

Such exempt person shall on oath state the information required in Section 48<sup>1</sup> of this Code, and shall also state the date of his birth if the ground is nonage and the date on which he became a resident of this State if the ground is nonresidence.

Certificates of exemption required by this Section shall be issued from the same book and in the same form indicated by Section 48 of this Code, except that in addition thereto the certificate shall set out the date of birth if the ground is nonage and the date of becoming a resident of this State if the ground is nonresidence. No charge shall be made by the

tax collector for the issuance of certificates of exemption required by this Section.

An exempt person who applies for a certificate as prescribed by this Section between the dates of October 1st and January 1st following shall be issued a certificate for use during the remainder of the current voting year (the voting year being from February 1st through January 31st) if he is then a qualified elector or will become a qualified elector before the expiration of that voting year, and shall also be issued a certificate for use during the ensuing voting year if he will be entitled to vote without payment of a poll tax during the ensuing year. On applications received between the dates of January 2nd and January 31st following, the tax collector shall issue the applicant an exemption certificate for use during the ensuing voting year if he will be a qualified elector entitled to vote without payment of a poll tax at any time during the ensuing year. On applications received between the dates of February 1st and September 30th following, the tax collector shall issue the applicant an exemption certificate for use during the current voting year if he is then a qualified elector or will become a qualified elector before the end of that voting year.

If at the time of issuance of a certificate for a current voting year the applicant is a qualified elector or will become a qualified elector within thirty (30) days thereafter, the tax collector shall place upon the face of the certificate the notation, "Holder not entitled to vote before \_\_\_\_\_," inserting the date on which the certificate will have been issued for a period of thirty (30) days. If at the time of issuance of a certificate the applicant is not a qualified elector and will not have become a qualified elector within thirty (30) days after the date of issuance if issued for the current voting year, or by the beginning of the ensuing voting year if issued for the ensuing year, the tax collector shall place a similar notation on the certificate, inserting the date on which the applicant will become twenty-one (21) years old, or will have resided in the State for one (1) year and in the county for six (6) months, as the case may be. The tax collector shall also place the notation alongside the certificate holder's name on the list of qualified voters.

The tax collector shall place on the regular list of qualified voters the names of persons who receive an exemption certificate as prescribed by this Section prior to the time he makes up such a list. He shall make up and furnish supplemental lists of persons to whom such certificates are subsequently issued, as required by Section 54<sup>2</sup> of this Code. As amended Acts 1961, 57th Leg., p. 308, ch. 160, § 1.

<sup>1</sup> Article 5.16.

<sup>2</sup> Article 5.22.

Effective 90 days after May 29, 1961, date of adjournment.

Section 2 of the amendatory Act of 1961 provided: "All exemption certificates here-

before issued pursuant to Section 49 of the Election Code for use during the 1961 voting year shall continue in force for the remainder of the voting year."

## CHAPTER SEVEN—ARRANGEMENT AND EXPENSES OF ELECTION

### Art. 7.14. Providing for voting machines

#### Sec. 20. Preservation of Ballots and Records of Voting Machines.

The voting machine shall remain locked against voting for a period of ten (10) days, provided that where a second election occurs within such

ten-day period, then the voting machine shall remain locked against voting for a period of five (5) days, and then shall have the seal broken only on the order of a district judge having jurisdiction in that county, such order to be entered on the minutes of the district court of that county, and if in the opinion of such district judge, contest is likely to develop, shall remain locked for such time as the district judge may direct; provided, however, such time shall not be for a period of time that will interfere with or prohibit the use of such machines in a subsequent election. Except, that on the order of any court of competent jurisdiction or on the order of any legislative body the seal may be broken for the purposes of proper investigation, and when such investigation is completed, the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the persons or person having broken same. Irregular ballots shall be preserved in the same manner and for the same length of time as now provided by law for other ballots. As amended Acts 1961, 57th Leg., p. 88, ch. 51, § 3.

Emergency. Effective March 29, 1961.

**Art. 7.16. Runoff elections in cities and towns of over 200,000; voting machines; ballot**

Section 3. The procedure provided in Section 1 hereof shall apply whether voting machines are used or not, but if voting machines are used, and a second election is called for any purpose so soon after a preceding election that the use of voting machines in the second election would be impracticable, then the authority calling the second election may authorize the use of paper ballots in such second election, and the general laws regarding paper ballots provided in this Code shall apply. Added Acts 1961, 57th Leg., p. 88, ch. 51, § 2.

Emergency. Effective March 29, 1961.

**Art. 7.17. Inapplication to elections in which voting machines used**

The provisions of Articles 38, 61, 73, 93, 187, and 200, relating to the use of the stub ballot, shall not apply to elections in which voting machines are used as provided elsewhere in this Code. As amended Acts 1961, 57th Leg., p. 88, ch. 51, § 1.

Emergency. Effective March 29, 1961.

**CHAPTER THIRTEEN—NOMINATIONS**

**1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER**

Art.

13.47a Application for nomination; affidavit of intent to run; filing [New].

**1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER**

**Art. 13.12. Request to go on ballot**

Filing application for nomination by convention, see art. 13.47a.

**Art. 13.15. Filing Fees for Certain Offices**

(b) Candidates for United States Senator and all those who are candidates for state offices to be voted upon by the qualified voters of the whole state shall pay to the chairman of the State Executive Committee One Thousand Dollars (\$1,000). Candidates for Congressman-at-Large or for Justice of the Court of Civil Appeals shall pay to the chairman of the State Executive Committee five per cent (5%) of one year's salary. A candidate who is required to pay a filing fee as herein provided shall not be required to pay any other sum or sums to any other person or committee to have his name placed on the ticket as such candidate. Payment of the fee herein required must be made within three (3) days after the candidate files his application for a place on the ballot and the name of no person who is required to pay a filing fee to the chairman of the State Executive Committee shall be placed on the ballot unless he has paid the fee in accordance with these provisions; but it shall be sufficient to meet the requirements of these provisions to mail a money order, a certified check, or a good personal check to the chairman of the State Executive Committee by registered letter within the time herein stated, as shown by the postmark on the letter. As amended Acts 1955, 54th Leg., p. 1295, ch. 513, § 2; Acts 1961, 57th Leg., p. 976, ch. 424, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 13.47. For district offices**

Filing application for nomination by convention, see art. 13.47a.

**Art. 13.47a. Application for nomination; affidavit of intent to run; filing**

Sec. 1. No person shall be nominated by any state, district, or county convention held pursuant to Articles 222, 223 and 224<sup>1</sup> of this Code unless he has filed with the chairman of the appropriate executive committee an application requesting that his name be placed before the convention as a candidate for nomination. The application shall conform to the requirements of Article 190 of this Code (Article 13.12, Election Code, Vernon's Texas Civil Statutes), and shall be filed in the same manner and within the time prescribed by that Article, except that it shall request that the candidate's name be placed before the convention instead of requesting that his name be placed on the general primary ballot.

Sec. 2. A person who has been nominated by a convention may decline the nomination, but he shall not be eligible for nomination by that party to any other office to be voted on at the same election except as a candidate for an unexpired term where the vacancy in office occurred subsequent to the date of the convention at which he was originally nominated.

Sec. 3. As a condition precedent to having a candidate's name printed on the official ballot under Article 227 or Article 230<sup>2</sup> of this Code, there must, in addition to the requirements of those two (2) Articles, be filed, with the person with whom the written application must, thereunder, be filed, an affidavit, duly acknowledged by the person desiring his name to be placed on the ballot stating his occupation, county of residence, post office address, age, and the office for which he intends to run. The affidavit must be filed at the same time requests under Article 190 of this Code must be filed.

For Annotations and Historical Notes, see V. T. A. S.

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Sec. 4. The requirements of Sections 1 and 3 hereof shall not apply to nominees for unexpired terms where the vacancy in office occurred subsequent to the tenth day preceding the deadline for filing as prescribed herein. Acts 1951, 52nd Leg., p. 1097, ch. 482, art. 224a, added Acts 1961, 57th Leg., p. 173, ch. 90, § 1.

<sup>1</sup> Articles 13.45, 13.46 and 13.47.

<sup>2</sup> Articles 13.50 and 13.53.

Effective 90 days after May 29, 1961, date of adjournment.

Independent candidates at county, city or town election, see art. 13.53.

Mode of nominating candidate, see art. 13.46.

Nomination by political party, see art. 13.45.

Nominations for district offices, see art. 13.47.

Non-partisan and independent candidates, see art. 13.50.

Request to go on ballot, see art. 13.12.

#### Art. 13.50. Non-partisan and Independent Candidates

Filing affidavit of intent to run, see art. 13.47a.

#### Art. 13.53. Independent candidates at county, city or town election

Filing affidavit of intent to run, see art. 13.47a.

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER ONE—GENERAL PROVISIONS

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| <p>Art.<br/>3174b—5. Contracts for medical care and treatment [New].</p> <p>3174b—6. Conveyance of waterworks and sanitary sewer system to Smith County Water Control</p> | <p>Art.<br/>3183f. Habeas corpus to secure release of inmates having contagious disease; return [New].</p> |
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Art. 3174a. Institutions to be known as Texas state hospitals and special schools

<p>The name of State School Farm Colony, Austin, Texas was changed to Travis State School by Acts 1961, 57th Leg., p. 280,</p>	<p>ch. 153, § 1, effective September 1, 1961. Section 2 of the act made appropriations available for use of Travis State School.</p>
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Art. 3174b—2. Medical treatment and services, power to provide without consent of relatives, etc.

Contracts for medical care and treatment, see art. 3174b—5.

Art. 3174b—4. Outpatient clinics; mental hospital; community hospital for research and education in mental illness

Contracts

Sec. 8. In conducting the research authorized by this Act, the Board shall make such contracts as it deems necessary to carry out such research. These contracts may be made with Jefferson Davis Hospital, operated jointly by the City of Houston and the County of Harris, and such other agencies as are necessary for research purposes; provided, however, the Board shall not be authorized to make a contract which will expire later than August 31, 1964. Acts 1957, 55th Leg., p. 1280, ch. 427, as amended Acts 1961, 57th Leg., p. 626, ch. 293, § 1.

<p>Effective 90 days after May 29, 1961, date of adjournment.</p>	<p>Contracts for medical care and treatment, see art. 3174b—5.</p>
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Art. 3174b—5. Contracts for medical care and treatment

Section 1. The Board for Texas State Hospitals and Special Schools may contract for the support, maintenance, care and treatment of mentally ill patients committed to its jurisdiction or for whom the Board is legally responsible. Such contracts shall be made only where such care is not available to the patient within a one hundred mile radius of the patient's residence. Such contracts may be made between the Board and city, county, and state hospitals, private physicians, licensed nursing homes and hospitals and hospital districts.

Sec. 2. Authority to contract provided herein shall be cumulative of all other contractual rights of the Board for Texas State Hospitals and Special Schools. Provided such contracts shall not include the assign-



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ment of any lien accruing to the State. Acts 1961, 57th Leg., p. 464, ch. 231.

Emergency. Effective May 25, 1961.

Contracts with public schools for education of inmates, see art. 3183e.

Medical treatment and services, power to provide without consent of relatives, see art. 3174b—2.

Outpatient clinics, see art. 3174b—4.

Title of Act:

An Act authorizing the Board for Texas State Hospitals and Special Schools to contract for medical care and treatment; and declaring an emergency. Acts 1961, 57th Leg., p. 464, ch. 231.

**Art. 3174b—6. Conveyance of waterworks and sanitary sewer system to Smith County Water Control and Improvement District No. 1**

Section 1. The Board for Texas State Hospitals and Special Schools, joined by or with the consent of the United States of America acting by and through the department or agency thereof duly authorized to act therefor, is hereby authorized and empowered to convey to Smith County Water Control and Improvement District No. 1 (Owentown); a political subdivision of the state duly created and acting under the laws of Texas, the waterworks and sanitary sewer system, together with the land and easements on which same is situated, located in Smith County, Texas, and now serving East Texas Tuberculosis Hospital, Tyler, Texas, which waterworks and sanitary sewer system was heretofore conditionally conveyed to the State of Texas by the United States of America by an instrument of conveyance dated July 28, 1948. The Executive Director of the Board for Texas State Hospitals and Special Schools may execute and deliver on behalf of said Board a proper instrument or instruments necessary to effect this conveyance.

Sec. 2. The consideration for the conveyance of said waterworks and sanitary sewer system shall be the agreement of the Smith County Water Control and Improvement District No. 1 (Owentown) to operate, maintain and keep said waterworks and sanitary sewer system in such manner as will assure an adequate water and sewer service to the East Texas Tuberculosis Hospital at rates and charges to be agreed upon between the Board for Texas State Hospitals and Special Schools and the Board of Directors of the Smith County Water Control and Improvement District No. 1 (Owentown). Acts 1961, 57th Leg., 1st C.S., p. 33, ch. 11.

Emergency. Effective Aug. 11, 1961.

Acts 1961, 57th Leg., 1st C.S., p. 33, ch. 11, § 3 provided: "The Legislature hereby finds that to convey these facilities as authorized by this Act would contribute to the general welfare of the people of the State of Texas because said waterworks and sanitary sewer system was designed to serve Camp Fannin, a World War II mili-

tary reservation which housed approximately 30,000 troops, and its size and capacity is excessive to the needs of the East Texas Tuberculosis Hospital and engineering studies reveal operation of these facilities for the exclusive use of the hospital not to be economically practicable or feasible."

**Art. 3183e. Contracts with public schools for education of inmates**

Contracts for medical care and treatment, see art. 3174b—5.

**Art. 3183f. Habeas corpus to secure release of inmates having contagious disease; return**

All writs of habeas corpus filed to secure the release of persons who have contagious diseases from State Hospitals and Special Schools shall be returnable to the appropriate court in the county where the hospital in

which the person is confined is located. Acts 1961, 57th Leg., p. 921, ch. 406, § 1.

Emergency. Effective June 17, 1961.

Title of Act:

Habeas corpus generally, see Vernon's Ann.C.C.P. art. 113 et seq.

An Act concerning release of persons who have contagious diseases from State Hospitals and Special Schools by writs of habeas corpus; and declaring an emergency. Acts 1961, 57th Leg., p. 921, ch. 406.

Removal of persons afflicted with disease, habeas corpus, see Vernon's Ann. C.C.P. art. 137.

**CHAPTER THREE—OTHER INSTITUTIONS**

**COUNTY-WIDE DAY SCHOOLS FOR THE DEAF [NEW]**

**LUFKIN STATE SCHOOL [NEW]**

Art. 3222b. Special county-wide day schools for deaf scholastics [New].

Art. 3263d. Lufkin State School.

**ABILENE STATE SCHOOL [NEW]**

3232c. Conveyance of excess land of Abilene State School [New].

**TEXAS SCHOOL FOR THE DEAF**

Art. 3203. 190 To teach printing  
County-wide day schools for the deaf, see art. 3222b.

**TEXAS BLIND, DEAF AND ORPHAN SCHOOL**

Art. 3221. 210 Powers and duties of Board of Control  
County-wide day schools for the deaf, see art. 3222b.

**COUNTY-WIDE DAY SCHOOLS FOR THE DEAF [NEW]**

Art. 3222b. Special county-wide day schools for deaf scholastics

**Establishment and operation**

Section 1. The Central Education Agency is hereby authorized to approve the establishment and operation of county-wide special day schools for the deaf in all counties having a population of three hundred thousand (300,000) or more inhabitants according to the last preceding Federal Census. Such schools shall be administered by a centrally located school district designated by the Central Education Agency in each such county, and the school districts accepting the designation shall provide appropriate physical facilities, buildings, equipment, supplies, materials and transportation to all eligible children residing within the county without regard to school district boundaries.

**Eligibility for attendance**

Sec. 2. A. All deaf children between the scholastic age of six (6) and twenty-one (21) years, inclusive, residing in the county providing a

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

day school program herein authorized for such scholastics shall be eligible to attend such school designated by the operating district.

B. Deaf children between the scholastic ages of six (6) and thirteen (13), inclusive, in such counties (heretofore eligible for admission in the Texas School for the Deaf or Texas Blind, Deaf and Orphan School, respectively) shall hereafter not be eligible for admission to the Texas School for the Deaf or Texas Blind, Deaf and Orphan School, respectively, except upon recommendation of the superintendent of the operating district with the concurrence of the superintendent of such respective and proper state school.

#### Option to continue program at state school

Sec. 3. Provided, however, students between the scholastic ages of six (6) and thirteen (13), inclusive, enrolled in the Texas School for the Deaf or the Texas Blind, Deaf and Orphan School on the effective date of this Act from counties herein authorized to provide and do provide county-wide day schools shall have the option of continuing their program at such respective state school or returning to their homes to attend the designated day schools authorized by this Act.

#### Eligibility for admission to Texas School for the Deaf

Sec. 4. Children enrolled in the county-wide day schools in such counties, who shall attain the chronological age of fourteen (14) on or before December 31, shall be eligible for admission to the Texas School for the Deaf or the Texas Blind, Deaf and Orphan School, respectively, or to continue their academic training and program of vocational planning, guidance and training in the special day school.

#### Payment of costs by state

Sec. 5. Total cost of operating county-wide day schools hereby authorized and to the extent hereinafter set out shall be borne entirely by the state and shall be paid from the Foundation School Fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for purposes of the Foundation School program and such county-wide day school program. No part of the operating costs herein provided for shall be charged to any of the school districts of this state.

#### Determination of costs

Sec. 6. Operating costs for the program in each county shall be determined and paid on the basis of the following factors:

(1) One teacher unit shall be allocated for every eight (8) eligible deaf pupils or major fraction thereof;

(2) Schools with fifteen (15) or more teacher units shall be allocated a full-time principal unit;

(3) One supervisor shall be allocated for every ten (10) teacher units but not to exceed three (3) supervisors; provided, however, that each approved school shall have at least one supervisor;

(4) Salary of the teacher, supervisor and principal shall be determined respectively in accordance with the official salary schedule of the district where the day school is established;

(5) An operation expense allotment including transportation of Five Hundred (\$500.) Dollars per each eligible deaf pupil enrolled in the program each current school year;

(6) One initial allotment in the amount of Two Thousand (\$2,000.) Dollars per each teacher unit approved for the first year of operation only shall be allowed for the acquisition of transportation vehicles, auditory and other classroom equipment, and other aids and adjustments needed for training such deaf pupils in this program.

#### State funds

Sec. 7. No state funds provided for herein shall be used for any other purpose than for the county-wide special day schools for the deaf program herein referred to.

#### Educational program

Sec. 8. The Central Education Agency shall approve the educational program for the county-wide day schools, and such program shall be comparable to that of the Texas School for the Deaf. Acts 1961, 57th Leg., p. 821, ch. 372.

Effective 90 days after May 29, 1961, date of adjournment.

Texas blind, deaf and orphan school, see art. 3221.

Central education agency, functions, see art. 2654—1.

Texas school for the deaf, see art. 3203.

Foundation school program, see art. 2922—11 et seq.

Totally deaf and blind children, education and maintenance, see art. 2675c—2.

Special program for preschool children with hearing loss, see art. 2654—1a.

### ABILENE STATE SCHOOL [NEW]

#### Art. 3232c. Conveyance of excess land of Abilene State School

Section 1. The Board for Texas State Hospitals and Special Schools is hereby authorized in its discretion to determine land in excess of the needs of the operation of the Abilene State School and thereafter sell and convey for cash any land which it has determined is no longer needed for the proper operation of the Abilene State School.

Sec. 2. After the Board has determined what land, if any, is in excess of the needs of the Abilene State School, it shall have such land surveyed and may sell same after advertisement in a newspaper published in Taylor County, Texas, in at least two issues thereof, the first such publication to be made at least thirty (30) days in advance of the sale date describing the land to be sold and calling for sealed bids thereon, the bids to be opened on the sale date by a majority of the Board either at its office in Austin, Texas, or at such other place as the Board may designate in the advertisement. The advertisement may describe in general terms the property to be sold but shall state that a description by metes and bounds may be obtained from the Board. Each bid shall be accompanied by cashier's or certified check in the amount of ten per cent (10%) of the amount bid which shall be forfeited to the State in the event the bidder is awarded the bid and fails or refuses to complete the purchase of the land upon tender of a deed thereto. The Board shall have the right to reject any and all bids but unless the Board elects to reject all bids it shall be required to accept the highest bid submitted. The proceeds from the sale of the land under this Act, less the expense of surveying, advertising and any other expense incidental or necessary to the accomplishment of the purpose of this Act, shall be deposited to the General Revenue Fund of the State of Texas.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Sec. 3. Sale of the above-described property shall be subject to a provision, to be contained in the deed, reserving to the State of Texas all oil, gas, and other minerals in and under said land and the right and power to remove any and all of said minerals, including the right and power to grant oil, gas, and mineral leases.

Sec. 4. The Chairman of the Board for Texas State Hospitals and Special Schools, authorized by an appropriate resolution of the Hospital Board, may execute and deliver a proper deed conveying the land sold, containing the reservation aforesaid, to the purchaser thereof, the form of such conveyance to be approved by the Attorney General. Acts 1961, 57th Leg., p. 708, ch. 333.

Effective 90 days after May 29, 1961, date of adjournment.

termine the amount of land excess to the needs of the operation of the Abilene State School; to sell and convey same; and declaring an emergency. Acts 1961, 57th Leg., p. 708, ch. 333.

Title of Act:

An Act authorizing the Board for Texas State Hospitals and Special Schools to de-

### LUFKIN STATE SCHOOL [NEW]

#### Art. 3263d. Lufkin State School

Section 1. Should the Board for Texas State Hospitals and Special Schools acquire from the United States of America the property and facilities located near Lufkin, Texas, and known as the Lufkin Air Force Base, said Board shall establish and maintain an additional school for the diagnosis, special training, education, supervision, treatment, care and control of mentally retarded persons of this state. After the establishment of said school, it shall be known as the "Lufkin State School."

Sec. 2. Within the limits of appropriated funds the Board is further authorized to acquire by eminent domain, purchase or gift, additional land adjacent to the facilities so acquired from the United States Government for the purpose of enlarging said school.

Sec. 3. Upon the acceptance of said facilities from the United States Government and the completion of the necessary renovations, the Board shall appoint such personnel as is necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded. Acts 1961, 57th Leg., p. 630, ch. 296.

Emergency. Effective June 14, 1961.

Title of Act:

Board of Texas state hospitals and special schools, see art. 3174b.

Mentally retarded persons, see art. 3871b.

State schools for mentally retarded, see arts. 3871c, 3871d.

An Act establishing and providing for a state mentally retarded school; regulating and providing for the operation of same; and declaring an emergency. Acts 1961, 57th Leg., p. 630, ch. 296.

## TITLE 52—EMINENT DOMAIN

## Article 3264. 6506, 6528. Procedure

6. The notices shall be served upon the parties at least ten (10) days before the day set for the hearing, exclusive of the day of the service, and may be served by any person competent to testify, by delivering a copy of such notice to the party, his agent or attorney. As amended Acts 1961, 57th Leg., p. 203, ch. 105, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Art. 3266. 6507-28 General provisions

6. If either party be dissatisfied with the decision, such party may within twenty (20) days after the same has been filed with the county judge file his objection thereto in writing, setting forth the grounds of his objection, and thereupon the adverse party shall be cited and the cause shall be tried and determined as in other civil causes in the county court. As amended Acts 1961, 56th Leg., p. 203, ch. 105, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

7. If no objections to the decision are filed within the time prescribed by Subdivision 6 of this Article, the County Judge shall cause said decision to be recorded in the minutes of the County Court, and shall make the same the judgment of the court and issue the necessary process to enforce the same. As amended Acts 1961, 57th Leg., p. 203, ch. 105, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

8. In counties in which the jurisdiction of eminent domain cases is in the district courts or county courts at law, the judges and clerks of said courts shall perform the functions in such proceedings as provided by law for county judges and clerks. Added Acts 1961, 57th Leg., p. 203, ch. 105, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 52A—ENGINEERS

## Art. 3271a. Registration of professional engineers

## Certification of Engineer-in-Training

Sec. 12a. (a) The term "Engineer-in-Training," as used in this Section shall mean a person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in Sections 12 and 14 of this Act.

(b) The following shall be considered as minimum evidence that the applicant is qualified for certification as an Engineer-in-Training:

(1) A graduate of an approved engineering curriculum of four (4) years or more who has passed the Board's eight (8) hour written examination in the fundamentals of engineering shall be certified or enrolled as an Engineer-in-Training, if he is otherwise qualified; or

(2) An applicant having a high school education and a specific record of eight (8) or more years of experience in engineering work of a grade and character satisfactory to the Board, who passes the Board's eight (8) hour written examination in the fundamentals of engineering shall be certified or enrolled as an Engineer-in-Training, if he is otherwise qualified.

(c) The fee for Engineer-in-Training certification or enrollment shall be established by the Board in an amount not to exceed Ten Dollars (\$10), and shall accompany the application. This fee may be credited toward the Twenty-five Dollars (\$25) necessary for registration.

(d) The certification or enrollment of an Engineer-in-Training shall be valid for a period of twelve (12) years. Added Acts 1961, 57th Leg., p. 590, ch. 282, § 1.

Emergency. Effective June 13, 1961.

## TITLE 53—ESCHEAT

Art.  
3272a. Personal property subject to es-  
cheat [New].

Art. 3272a. Personal property subject to escheat

Report by holder of personal property

Section 1. Every person holding personal property subject to escheat under Article 3272 of Title 53, Revised Civil Statutes of Texas, 1925, at the time of the effective date of this Act, shall, within sixty (60) days thereafter, file a report thereof with the State Treasurer, as specified in Section 2 of this Article. Every person who holds personal property which becomes subject to escheat under Article 3272 after the effective date of this Act, shall, within sixty (60) days thereafter, file a report thereof with the State Treasurer, as specified in Section 2 of this Article; provided that after one report has been made under this Article by any person, subsequent reports by such person may be made on an annual basis on or before May 1st of each year.

(a) The term "person" as used in this Article means any individual, corporation, business association, partnership, governmental or political subdivision or officer, public authority, estate, trust, trustee, officer of a court, liquidator, two (2) or more persons having a joint or common interest, or any other legal, commercial, governmental or political entity, except banks, savings and loan associations, banking organizations or institutions.

(b) The term "personal property" includes, but is not limited to, money, stocks, bonds and other securities, bills of exchange, claims for money or indebtedness and other written evidences of indebtedness, dividends, deposits, accrued interest, purchase payments, sums payable on certified checks, certificates of membership in a corporation or association, amounts due and payable under the terms of any insurance policy, security deposits, unclaimed refunds and deposits for utility or other services, funds to redeem stocks and bonds, undistributed profits, dividends, or other interests, production and proceeds from oil, gas and other mineral estates, and all other personal property and increments thereto, whether tangible or intangible, and whether held within this State, or without the State for a person or beneficiary whose last known residence was in this State.

(c) The term "subject to escheat" shall include personal property presumed to be subject to escheat by the prima facie conclusions contained in Article 3272, including all personal property (1) of which the existence and whereabouts of the owner are unknown and have been unknown to the holder for more than seven (7) years and (2) on which, from the knowledge and records of the holder it appears that no claim or act of ownership has been asserted or exercised during the past seven (7) years and (3) on which no will of the last known owner has been recorded or probated in the county where the property is situated within the past seven (7) years.



**Form of Report**

Sec. 2. The report shall be prepared and returned in triplicate, verified under oath, and shall include the following:

(a) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of the property reported; or the name and address, if known, of any person who may be entitled to such property; together with a brief description of the property, which in the case of deposits, shall disclose the total balance. If any deductions have been made therefrom by the holder for service, maintenance, or other charges, they shall be disclosed unless such deductions have been fully restored in the total amount reported as provided in subsection (d) below.

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured beneficiary or annuitant and his last known address according to the life insurance corporation's records.

(c) In the case of mineral proceeds, a list of all credits grouped as to the counties from which the credited proceeds were derived, including credits which have theretofore been charged off or disposed of in any manner except by payment to the owner thereof; giving the name and last known address of the owner; the fractional mineral interest of the owner; description and location of the land or lease from which the oil, gas, or mineral was produced; the name of the person, firm or corporation who operated the oil or gas well or mine; the period of time during which such proceeds accumulated and the price for which such oil, gas, or other mineral was sold, each such several ownerships to be given an identifying number. The nature and identifying number, if any, or description of the property, and the amount appearing from the records to be due, except that items of value under Ten Dollars (\$10) each may be reported in aggregate;

(d) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property. Since the State upon escheat is entitled to all rights of the former owner, in the case of dormant deposits or accounts on which deductions for service, maintenance, or other charges would be restored under the policy or procedures of the holder upon request by the owner, such deposits or accounts shall be reported and shall be subject to escheat hereunder in the same amount to which the former owner would be entitled upon such request; and

(e) Other information which may be prescribed by rule of the State Treasurer as necessary for the administration of this Article.

(f) The verification under oath at the conclusion of the report shall include the following language:

"The foregoing report contains a full and complete list of all personal property held by the undersigned for which, from the knowledge and records of the undersigned, it appears that the existence and whereabouts of the owner are unknown and have been unknown for more than seven (7) years and on which no claim or act of ownership has been asserted or exercised during the past seven (7) years and on which no will of the last known owner has been recorded or probated in the county where the property is situated within the past seven (7) years."

(g) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corpora-

tion, by an officer; and if made by a public corporation, by its chief fiscal officer.

#### Notice and Publication of Lists of Abandoned Property

Sec. 3. (a) Within sixty (60) days after the date in which the reports specified in Section 2 are received, the State Treasurer shall mail a notice thereof, as hereinafter described, to the Sheriff of the county of the domicile or principal place of business of the holder so reporting, and in cases involving more than Fifty Dollars (\$50), to the Sheriff of the county of the last known residence of the owner if it is different from the county of the holder. The notice to the Sheriff shall be entitled 'Notice of Names of Persons Appearing to be Owners of Abandoned Property,' and shall contain:

(1) The names in alphabetical order and the last known addresses, if any, of persons listed in the report and entitled to notice as hereinbefore specified; and

(2) A statement that information concerning the amount and description of the property and the name and address of the holder may be obtained by any persons possessing or claiming an interest in the property by addressing an inquiry to the holder so reporting. Within ten (10) days after receipt of said notice, it shall be the duty of the Sheriff to post it on the courthouse door or the courthouse bulletin board, where it shall remain posted for a period of not less than thirty (30) days. Thereafter the Sheriff shall return the notice to the State Treasurer with his certificate showing the date and time of posting required by this Section.

#### Determination of Escheat

Sec. 4. (a) All personal property reported under the provisions of this Article remaining unclaimed at the expiration of one hundred and twenty (120) days from the date upon which the report by the holder of such property was received by the State Treasurer, shall be deemed to be abandoned, and shall escheat to, and the title thereto vest in, the State of Texas, and the State Treasurer shall so certify to the Attorney General.

(b) The Attorney General shall immediately institute an action in a District Court of the county in which the holder resides or is domiciled to judicially determine that such property has escheated to the State. The suit shall be brought as a class action, and may include the property reported by more than one holder from the same or other counties, and the sworn petition shall state that the action is brought by the State of Texas upon the relation of the State Treasurer by the Attorney General for the purpose of escheating and vesting the title in the State of Texas of the property therein described, stating the description of the property which has escheated to the State, the name of the person or holder possessed thereof and the names of the person or persons claiming, or last known to have claimed, such property, if any such names are known, all of which information shall be separately listed in parallel columns, and the facts and circumstances in consequence of which such property is claimed to have escheated, praying that such property be escheated, and the title thereto vested in the State of Texas. The petition shall not be subject to objections as to the misjoinder of parties or misjoinder of causes of action.

(c) The Clerk of the Court in which such suit is filed shall issue citation as in other civil cases, which shall be styled, 'The State of Texas,'

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

and shall be directed to the person or holder named in the petition as being possessed of the property described in said petition, which citation need not be accompanied by a copy of the original petition filed in the suit, but which shall state concisely the nature of the suit, a description of the property possessed by the person or holder to whom the citation is directed, and the name of the person or persons claiming, or last known to have claimed, such property as set forth in the petition, together with the facts and circumstances in consequence of which such property is claimed to have been escheated, and the prayer contained in the petition.

(d) The Clerk of the Court in which such suit is filed shall also issue citation which shall be styled, "The State of Texas," and shall be directed to all persons interested in, claiming, or asserting an interest in the abandoned property, which description of such property, together with the name of the last holder thereof and the names of the person or persons claiming, or last known to have claimed, such property, shall be listed as described in the petition, to appear and answer as provided in the Texas Rules of Civil Procedure, which citation shall be published in accordance with Rules 114, 116, 117, and 118, Texas Rules of Civil Procedure, except that such citation shall be published only once at least twenty-eight (28) days before the return day of the citation, and except as such rules are further herein modified. The costs of publication shall be paid by the State Treasurer at the rate set out in Article 29, Revised Civil Statutes. Any person claiming an interest in such abandoned property, whether such person is or is not specifically named in the petition, may appear and answer in such proceedings as in other civil suits.

(e) All actions brought under this Section shall be governed by the procedure provided in the Texas Rules of Civil Procedure relating to class actions, unless otherwise provided in this Article.

(f) The sworn reports filed with the State Treasurer in accordance with Section 2 of this Article shall, when offered in evidence, constitute prima facie evidence that the property set forth therein has no owner and has escheated to the State, both under the provisions of this Article and Article 3272 of this Title, unless the person or claimant to the property set forth and described in such report shall file a written denial, under oath, denying that such property has no owner and has escheated to the State, and asserting a claim and proof of ownership thereto. In the absence of such a sworn plea, the sworn report shall be received in evidence as conclusive proof that the property set forth and described in such report has no owner and has escheated to the State, both under the provisions of this Article and Article 3272 of this Title.

(g) If it appears to the Court that the property described in the petition has been actually abandoned, and that there is no person entitled to it, judgment shall be rendered declaring such property escheated and vesting the title thereto in the State of Texas. The judgment shall also direct the holder of the property so described, which has been actually abandoned and escheated and the title thereto vested in the State, to deliver such property immediately to the State Treasurer. If no person or claimant to any property described in the petition shall appear and answer within the time provided for entering such appearance and answer by the Texas Rules of Civil Procedure, the Court shall render judgment by default as to such property in favor of the State of Texas. If the Court should find that such property has not been actually abandoned and therefore should not be escheated and the title thereto vested in the State of Texas, and that the title to such property should vest in the person or persons claiming the title to or an interest in such property, the Court

shall direct such property to be delivered to the person or persons lawfully entitled to possession thereof. Any person who has entered an appearance in the trial of such cause, and the Attorney General on behalf of the State, shall have the right to prosecute an appeal from the judgment of the trial court as provided by the Texas Rules of Civil Procedure. No appeal bond shall be required on an appeal by the State of Texas.

(h) After the judgment of the Court vesting the title to such property in the State of Texas has become final, the Attorney General shall so certify to the State Treasurer. When such certification has been received by the State Treasurer and the property which has been escheated and the title thereto vested in the State of Texas under such judgment has been delivered to the State Treasurer in accordance with the mandate contained in such judgment, the State Treasurer shall immediately place the sums of money so escheated to the State of Texas in the State Treasury to the credit of the General Fund, subject to the provisions of Section 14 of this Article. Where the title to intangible personal property other than money has been adjudged to be vested in the State of Texas, and such property has been sold as provided in Section 5 hereof, the State Treasurer shall deposit the proceeds received from the sale of such intangible personal property in the State Treasury to the credit of the General Fund. After delivery of the property to the State Treasurer, the holder thereof shall be relieved of all liability therefor to any person who may later assert a claim thereto.

#### Sale of Abandoned Property

Sec. 5. (a) All abandoned property other than money delivered to the State Treasurer under this Article which has been escheated and the title thereto vested in the State of Texas shall be sold by the State Treasurer to the highest bidder at public sale in whatever city in the State in his judgment affords the most favorable market for the property involved. The State Treasurer may decline the highest bid and reoffer such property for sale if he considers such bid insufficient. He need not offer any property for sale, if, in his opinion, the probable cost of sale is in excess of the value of the property.

(b) Any sale held under this Section shall be preceded by a single publication of notice thereof at least three (3) weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold, which shall be paid for at the rate provided in Article 29, Vernon's Civil Statutes.

(c) The purchaser at any sale conducted by the State Treasurer pursuant to this Section, shall receive title to the property purchased, free from all claims of the owner or prior holder thereof, and of all persons claiming through or under them. The State Treasurer shall execute all documents necessary to complete the transfer of title.

#### Claim of Interest in Abandoned Money and Intangible Personal Property Escheated to the State

Sec. 6. (a) Any person claiming an interest in any property paid or surrendered to the State Treasurer which has been adjudged to be actually abandoned, escheated, and the title thereto vested in the State of Texas under the provisions of this Article who was not actually served with notice, and who did not appear, and whose claim was not specifically presented and considered during the action or at the proceedings resulting in its escheat and the title thereto vested in the State of Texas, may file his claim to such property with the State Treasurer, which claim

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

shall be filed on forms and through procedures prescribed with the State Treasurer. Provided that any such person claiming an interest in money which has been paid to the State Treasurer by any insurance company may file his claim to such property with the insurance company where such money was originally deposited, which claim shall be filed on forms and through procedures prescribed by the State Treasurer. Upon approval of any such claim the insurance company shall pay the amount of any such claim. Any insurance company paying such a claim may file a claim for reimbursement as provided for in Section 7 of this Act.

(b) No person holding a power of attorney from a claimant who files a claim to such property as hereinabove provided on behalf of any claimant, shall contract for or receive from the claimant for his services an amount in excess of ten per cent (10%) of the value of the property recovered, except that where suit has been instituted as provided in Section 8 hereof, such person may contract for and receive a fee to be fixed by the Court, not to exceed twenty-five per cent (25%) of the value of the property recovered.

#### Determination of Claims

Sec. 7. (a) It shall be the joint duty and responsibility of the State Treasurer and the Attorney General or their duly authorized assistants, to consider the validity of any claim filed under this Article.

(b) The State Treasurer and the Attorney General may hold a hearing and receive evidence concerning any claim filed under the provisions of Section 6 of this Article. If a hearing is deemed necessary in order to determine a claimant's right to receive funds which have escheated to the State, a finding and a decision in writing on each claim filed, stating the substance of the evidence heard and the reasons for such decision, shall be signed by both the State Treasurer and the Attorney General, and shall be a public record. If the claim is allowed as a valid, just and equitable one in the discretion of the above-mentioned officers, it shall be approved and signed by both officers.

(c) If the claim is for money which has been declared to be abandoned, escheated, and the title thereto vested in the State of Texas under the provisions of Section 4 of this Article, and the claim has been allowed, approved, and signed as provided herein, the claim shall be paid by the State Treasurer from the Escheat Expense and Reimbursement Fund. If the claim is for intangible personal property which has been declared to be abandoned, escheated, and the title thereto vested in the State of Texas under the provisions of Section 4 of this Article, and the property has not been sold by the State Treasurer as provided in Section 5 of this Article, the State Treasurer shall promptly deliver such property to the claimant. If such property has been sold, as provided in Section 5 of this Article, the full amount of the claim shall be paid to the claimant without deduction for costs of administration, service charges, or notices of any kind whatsoever.

(d) If the claim is for reimbursement by any insurance company for payments made pursuant to Section 6, and if such claim has been allowed, approved, and signed as provided herein, the claim shall be paid to such insurance company by the State Treasurer from the Escheat Expense and Reimbursement Fund.

#### Judicial Action Upon Determination of Claims

Sec. 8. (a) Any person aggrieved by a decision of a claim under the provisions set forth in Section 6 or Section 7 or as to whose claim a

final decision has been rendered within ninety (90) days after filing same, may appeal within sixty (60) days from the date of the decision rendered or the lapse of ninety (90) days as the case may be.

(b) The appeal proceeding shall be commenced in any District Court in Travis County, Texas, or in any District Court of Texas in the county wherein the funds claimed were on deposit. The action shall be tried de novo and in all other respects be governed by the rules of practice in such court. Permission is hereby expressly granted to any and all such claimants to sue the State of Texas, as herein provided.

#### Examination of Records

Sec. 9. At the request of the State Treasurer or the Attorney General, or either of them, the State Auditor, State Comptroller of Public Accounts, State Banking Commissioner, Commissioner of Insurance, Securities Commissioner, the Department of Public Safety, and any District or County Attorney shall assist the State Treasurer and the Attorney General in the enforcement of this Article. The State Treasurer or the Attorney General, or the duly authorized assistants, agents, or representatives of either of them, may, at all reasonable times, examine the books and records of any person to enforce this Article and to determine if the reports (required in this Article) have been made as provided herein. The State Treasurer and the Attorney General, and their authorized assistants, agents or representatives, shall not make public or use any information derived in the course of said examination of said books and records except in the course of any judicial proceeding authorized under the provisions of this Article in an action in which the State of Texas is a party.

#### Reciprocity for Property Presumed Abandoned or Escheated Under the Laws of Another State

Sec. 10. If specific property which is subject to the provisions of this Article and is held for or owed or distributable to an owner whose last known address is in another State by a holder who is subject to the jurisdiction of that State, the specific property is not presumed abandoned in this State and subject to this Article if:

(a) It has been claimed as abandoned or escheated under the laws of such other State; and

(b) The laws of such other State make reciprocal provisions that similar specific property is not presumed abandoned or escheatable by such other State when held for or owed or distributable to an owner whose last known address is within this State by a holder who is subject to the jurisdiction of this State.

#### Foreign Owners

Sec. 10a. This Article shall not apply to any bank account held within this State where the last known owner was a citizen and resident of another country.

#### Unclaimed Property Held by the Federal Government

Sec. 11. In the event of the enactment by the Federal Government of laws providing for the discovery of unclaimed property held by the Federal Government, and for the furnishing or availability of such information to the States, the State Treasurer is hereby authorized to compensate the Federal Government for the proportionate share of the actual and necessary cost of examining records, and the State of Texas

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shall hold the Federal Government harmless from later claims of owners of unclaimed property delivered to the State Treasurer by the Federal Government. Such compensation shall be paid from the Escheat Expense and Reimbursement Fund.

#### Rules and Regulations

Sec. 12. The State Treasurer is hereby authorized to make necessary rules and regulations to carry out the provisions of this Article.

#### Penalties

Sec. 13. Any person who wilfully fails to file a report required by this Article, or who refuses to permit examinations of records as provided in this Article, or who deducts from or makes a service charge against an inactive or dormant account or other deposit of funds, shall be punished by a fine of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000), or by confinement for not more than six (6) months in the county jail, or both, and in addition, shall be subject to civil penalties of not exceeding One Hundred Dollars (\$100) for each day of such failure or refusal, said civil penalties to be collected by suit in a District Court of Travis County, Texas, by the Attorney General in the name of the State of Texas.

#### Effect on provisions relating to escheat of estates of decedents

Sec. 14. The provisions of this Article 3272a are in addition and supplementary to and shall not be construed to repeal, alter, change, or amend any of the provisions of Articles 3273 to 3289, inclusive, Title 53, Revised Civil Statutes of Texas, 1925, which provide for the escheat of estates of decedents.

#### Escheat Expense and Reimbursement Fund

Sec. 15. (a) There is hereby created a revolving fund to be known as the 'Escheat Expense and Reimbursement Fund' in the amount of One Hundred Thousand Dollars (\$100,000) to be held by the State Treasurer, one half ( $\frac{1}{2}$ ) of which shall be maintained for reimbursement of persons who obtain decisions or judgments in accordance with Sections 6 and 7 of this Article that they are entitled to escheated funds, and one half ( $\frac{1}{2}$ ) of which shall be used by the Treasurer and the Attorney General, with expenditures and vouchers approved by both of such officers, for the purpose of enforcement of the provisions of this Title, including the expense of publishing of notices, examinations, travel, court costs, witness fees, employment of such additional assistants and other personnel as may be necessary for such purposes in either of their offices at salaries not to exceed the rate paid other employees for similar services, and all other expenses necessary for enforcement of this Title. The Governor is authorized to transfer to the Escheat Expense and Reimbursement Fund sums not to exceed Twenty Thousand Dollars (\$20,000) from any appropriations made to the Executive Department to be used and expended for the purposes above set out. Thereafter, such sums of money as may be necessary to maintain the Escheat Expense and Reimbursement Fund in the sum of One Hundred Thousand Dollars (\$100,000) shall be deposited to such Fund from funds escheated to the State pursuant to the provisions of this Act, prior to any deposit to the General Revenue Fund for such escheated funds. The Escheat Expense and Reimbursement Fund shall be subject to audit by the State Auditor and to appropria-

tion by the Legislature for the purpose of enforcing this Title. Added Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

Section 2 of the Act of 1961 amended art. 3273; section 3 amended art. 3284 and section 4 contained a severability clause.

**Art. 3273. 3187, 1822, 1771 Petition for escheat**

In addition to any special proceedings provided in Article 3272a, when the Attorney General or the District or Criminal District or County Attorney shall be informed, or have reason to believe, that any estate, real or personal, is in the condition specified in the preceding Article 3272, he shall file a sworn petition which shall set forth a description of the estate, the name of the person last lawfully seized or possessed of same, the name of the tenants or persons claiming the estate, if any such are known, and the facts or circumstances in consequence of which such estate is claimed to have escheated, praying that such property be escheated and for a writ of possession therefor in behalf of the State. If filed by any officer other than the Attorney General, he shall notify the Attorney General in writing and forward a copy of the petition in order that the Attorney General may participate in behalf of the State if he so elects, provided that all actions brought hereunder shall be governed by the procedure provided in the Texas Rules of Civil Procedure relating to class actions and the petition shall not be subject to objections as to misjoinder of parties or causes of action. This procedure shall be supplementary to and cumulative of any actions or procedures authorized in Article 3272a with respect to escheat of personal property and either procedure may be followed in applicable cases. As amended Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 2.

Effective 90 days after Aug. 8, 1961, date of adjournment.

Effect of art. 3272a on the provisions of this article, see art. 3272a, § 14.

**Arts. 3274-3283.**

Effect of art. 3272a on the provisions of this article, see art. 3272a, § 14.

**Art. 3284. 3198, 1832, 1781 Appeal or writ of error**

Any party who has appeared in such proceedings, and also the Attorney General or the Criminal District or District or County Attorney on behalf of the State, shall have the right to prosecute an appeal or writ of error upon such judgment. As amended Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 3.

Effective 90 days after Aug. 8, 1961 date of adjournment.

**Arts. 3285-3289.**

Effect of art. 3272a on the provisions of this article, see art. 3272a, § 14.



## TITLE 55—EVIDENCE

## 1. WITNESSES AND EVIDENCE

## Art. 3731a. Official written instruments, certificates, records, returns and reports; foreign laws

## Domestic Records

Section 1. Any written instrument, certificate, record, part of record, return, report, or part of report, made by an officer of this State or of any governmental subdivision thereof, or by his deputy, or person or employee under his supervision, in the performance of the functions of his office and employment, shall be, so far as relevant, admitted in the courts of this State as evidence of the matter stated therein, subject to the provisions in Section 3. As amended Acts 1961, 57th Leg., p. 685, ch. 321, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Federal, Out of State, and Foreign Records

Sec. 2. Any written instrument which is permitted or required by law to be made, filed, kept or recorded (including but not limited to certificate, written statement, contract, deed, conveyance, lease, concession, covenant, grant, record, return, report or recorded event) by an officer or clerk of the United States or of another state or nation or of any governmental subdivision of any of the foregoing, or by his deputy or employee; or by any Notary Public of a foreign country in a protocol or similar book in the performance of the functions of his office, shall, so far as relevant, be admitted in the courts of this State as evidence of the matter stated therein, subject to the provisions in Section 3. As amended Acts 1961, 57th Leg., p. 685, ch. 321, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Foreign laws

Sec. 2a. Any constitutional, statutory, written law, proclamation, decree, statutory or administrative rule or regulation, or rule of law of any foreign country as of a particular date or dates, shall, so far as relevant, be admitted in the courts of this State as evidence of the matters contained therein, subject to the provisions of Section 3. It is hereby declared that the word "writing" in Section 3 shall be interpreted to include the items contained in this Section. Added Acts 1961, 57th Leg., p. 685, ch. 321, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Authentication of Copy

Sec. 4. Such writings may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy. Except in the case of a copy of an official writing from a public office of this State or a subdivision thereof, the attestation shall be accompanied with a certificate that the attesting officer has the legal custody of such writing. If the office in which the record is kept is within the United States or within a territory or insular

possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States, or by any officer of a United States military government, stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. In the case of the matters in Section 2a, the substance, contents, and/or wording of any of such matters may also be evidenced by certification, as to existence on a particular date or dates by the governmental head of such country or his secretary, or such country's attorney (such as attorney general) or assistant attorney or chief legal head, or the president, leader or head of its or one of its law-making bodies or the secretary thereof; or judge or any justice of any appellate court of such country and if none, judge or any justice of one or any one of its highest judicial tribunals. All such attested and certified instruments and the contents of the certificate and the title of the person making same, shall be evidence of the matters, statements, representations and title contained therein. As amended Acts 1961, 57th Leg., p. 685, ch. 321, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 3737d—1. Court interpreters in certain judicial districts in counties bordering International Boundary**

Interpreters for deaf or deaf-mute persons in criminal prosecutions, see Vernon's Ann.C.C.P. art. 733a.

**TITLE 59—FEEBLE MINDED PERSONS—PROCEEDINGS  
IN CASE OF**

Art. 3871d. Additional state school for mentally retarded in gulf coast area [New].

**Art. 3871d. Additional state school for mentally retarded in gulf coast area**

**Establishment**

Section 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this State in the Gulf Coast area. It shall be known as the State School; that after the said State School has been located, then the name of the city near which it is located shall be added before the words "State School" which shall be its name.

The Board for Texas State Hospitals and Special Schools shall select, and acquire by gift or purchase, within the limits of legislative appropriations, a site for said school, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board.

**Buildings**

Sec. 2. There shall be constructed upon said grounds so selected, permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The plans and specifications for said buildings shall be prepared in the usual manner as provided by law; and immediately after this Act becomes effective and title to the land designated as the site for said school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriation, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

**Personnel; patients**

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance.

nance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded. Acts 1961, 57th Leg., p. 606, ch. 288.

Emergency. Effective June 14, 1961.

Title of Act:

Board for Texas state hospitals and special schools, see art. 3174b.

Mental health code, see art. 5547—1 et seq.

Outpatient clinics, see art. 3174b—4.

Texas state hospitals and special schools, see art. 3174 et seq.

An Act establishing and providing for a state mentally retarded school; regulating and providing for the operation of same; and declaring an emergency. Acts 1961, 57th Leg., p. 606, ch. 288.

## TITLE 61—FEES OF OFFICE

## CHAPTER ONE—GENERAL PROVISIONS

- |   |   |
|---|---|
| <p>Art.<br/>3883f—1. Tax assessor—collector in counties of not less than 600,000 and not more than 700,000 [New].</p> <p>3886i. District attorneys in counties of 600,000 to 700,000; salary [New].</p> <p>3902f—2. Counties of 9,100 to 9,300; compensation of deputies, clerks and assistants [New].</p> <p>3912e—5d. Additional compensation for Tarrant County Judge as member of Juvenile Board [New].</p> | <p>Art.<br/>3912e—17. Counties of 6,210 to 6,260; compensation of officials [New].</p> <p>3912e—18. Counties of 13,330 to 13,700; compensation of officers [New].</p> <p>3912e—19. Counties of 11,950 to 11,990; compensation of officials [New].</p> |
|---|---|

**Art. 3883f—1. Tax assessor-collector in counties of not less than 600,000 and not more than 700,000**

The total compensation of any county assessor-collector of taxes of any county having a population of not less than six hundred thousand (600,000) and not more than seven hundred thousand (700,000) according to the last preceding Federal Census shall not exceed Sixteen Thousand, Five Hundred Dollars (\$16,500), inclusive of salary, fees and other compensation received as assessor-collector of taxes. Acts 1961, 57th Leg., p. 522, ch. 248, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Title of Act:**

An Act providing maximum compensation for assessor-collectors of taxes for all

counties having a population of not less than six hundred thousand (600,000) nor more than seven hundred thousand (700,000) according to the last preceding Federal Census; and declaring an emergency. Acts 1961, 57th Leg., p. 522, ch. 248.

**Art. 3883i. Maximum and minimum salaries; certain precinct, county and district officials in certain counties**

**Counties of less than 20,000; county and district officials**

Section 1. In each county in the State of Texas having the population of less than twenty thousand (20,000) inhabitants according to the last preceding Federal Census where all county and district officials are compensated on a salary basis, the Commissioners Courts shall fix the salaries of the officials named in this Act at not more than Six Thousand, Seven Hundred and Fifty Dollars (\$6,750) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

**Certain counties of less than 11,000; county and district officials**

(a). In each county of the State of Texas having a population of less than eleven thousand (11,000) inhabitants according to the last preceding Federal Census and having an assessed valuation of more than Forty Million Dollars (\$40,000,000) but less than Forty-two Million Dollars (\$42,000,000) according to the last preceding approved tax roll where all county and district officials are compensated on a salary basis, the Commissioners Court shall fix the salaries of the officials named in this Act

at a sum of not more than Ten Thousand Dollars (\$10,000) per annum; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this Act. Added Acts 1961, 57th Leg., p. 900, ch. 398, § 1.

Emergency. Effective June 17, 1961.

**Counties of 98,001 to 195,000**

Sec. 4. In each county in the State of Texas having a population of at least ninety-eight thousand and one (98,001) and not more than one hundred and ninety-five thousand (195,000) inhabitants according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of the county and district officials named in this Act at not more than Eleven Thousand Dollars (\$11,000) per annum; provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act.

**Counties of 135,000 or more, having assessed valuation  
of over \$200,000,000**

(a) In each county of the State of Texas governed by Section 4 hereof and having a population of at least one hundred thirty-five thousand (135,000) inhabitants according to the last preceding Federal Census and having an assessed valuation of more than Two Hundred Million Dollars (\$200,000,000) according to the last preceding approved tax roll where all county and district officials are compensated on a salary basis, the Commissioners Court shall fix the salaries of the officials named in this Act at a sum of not more than Fourteen Thousand Dollars (\$14,000) per annum; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this Act and further providing this Subsection shall be cumulative of all other laws pertaining to the compensation of county officials. Added Acts 1961, 57th Leg., p. 1177, ch. 532, § 1.

Emergency. Effective June 17, 1961.

**Dallas county and counties of one million or more inhabitants;  
enumeration of salaries and restrictions**

Sec. 8.

(b) In all counties of this State having a population of one million (1,000,000) or more inhabitants according to the last preceding Federal Census, the Commissioners Court of such counties shall fix the salaries of county officials in the following manner:

The salary of the county judge shall be Eighteen Thousand Dollars (\$18,000) per annum; the county commissioners, Fourteen Thousand, Six Hundred Dollars (\$14,600); criminal district attorney and district attorney, not less than Fifteen Thousand Dollars (\$15,000) nor more than Eighteen Thousand Dollars (\$18,000); probate judge and county attorney, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Seventeen Thousand, Two Hundred Dollars (\$17,200); sheriff and tax assessor and collector, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Sixteen Thousand, Two Hundred Dollars (\$16,200); judges of the county courts at law and county criminal courts, not less than Thirteen Thousand, Eight Hundred Dollars (\$13,800) nor more than Fifteen Thousand, Six Hundred Dollars (\$15,600); county clerk and district clerk, not less than Twelve Thousand, Eight Hundred Dollars (\$12,800) nor more than Fourteen Thousand, Four Hundred Dollars (\$14,400); county treasurer, not less than Twelve

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Thousand Dollars (\$12,000) nor more than Thirteen Thousand, Eight Hundred Dollars (\$13,800); each of such salaries shall be payable in equal monthly installments; provided, however, that the total salary received by the tax assessor and collector, including all additional fees and compensation, shall not exceed Eighteen Thousand, Five Hundred Dollars (\$18,500) per annum in the aggregate; justices of the peace and the constables at not to exceed Twelve Thousand Dollars (\$12,000) per annum, to be paid in equal monthly installments; provided, however, that the justices of the peace and constables whose precincts lie wholly or in part in cities having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, shall receive not less than Ten Thousand Dollars (\$10,000) per annum. Added Acts 1961, 57th Leg., p. 281, ch. 154, § 1.

Emergency. Effective May 15, 1961.

**Art. 3886i. District attorneys in counties of 600,000 to 700,000; salary**

From and after September 1, 1961, in all counties of a population of not less than six hundred thousand (600,000) nor more than seven hundred thousand (700,000), the district attorneys in each of such counties may receive as pay for their services the sum of Sixteen Thousand, Five Hundred Dollars (\$16,500) per year. The Commissioners Court of such counties may supplement the salary of the district attorney paid by the State of Texas in an amount to provide the salary provided herein. Acts 1961, 57th Leg., p. 1065, ch. 477, § 1.

Effective September 1, 1961.

Compensation of district attorneys in various judicial districts, see art. 326k-1 et seq. District attorneys in large counties having county attorney, see art. 326f.

**Art. 3902. 3903 Deputies, assistants or clerks; appointment; compensation and salaries; increase**

Employment of special counsel in counties of more than 500,000 population, see art. 2372p.

**Art. 3902f—2. Counties of 9,100 to 9,300; compensation of deputies, clerks and assistants**

**Section 1.** In each county of the State of Texas having a population of more than nine thousand, one hundred (9,100) and less than nine thousand, three hundred (9,300) inhabitants according to the last preceding Federal Census, the Commissioners Court is hereby authorized to fix the salaries of the deputies, assistants and clerks of any district, county or precinct officer at an amount not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per year.

**Sec. 2.** No salary fixed under Section 1 of this Act shall result in any deputy, assistant, or clerk receiving a greater salary than is allowed the district, county or precinct officer under whom such deputy, assistant or clerk is employed.

**Sec. 3.** The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of deputies, assistants and clerks of any district, county or precinct officer. Acts 1961, 57th Leg., p. 1172, ch. 527.

Emergency. Effective June 17, 1961.

Counties of 301,000 to 398,000, compensation of employees, deputies and assistants, see art. 3912e—15.

Increase in compensation of precinct, county and district officers and employees, see art. 3912g.

Art. 3912e—5d. Additional compensation for Tarrant County Judge as member of Juvenile Board

As compensation for the added duties imposed upon him as a member of the Tarrant County Juvenile Board, the County Judge of Tarrant County shall be allowed additional compensation of Two Thousand, Three Hundred Dollars (\$2,300) annually, to be paid in twelve (12) equal monthly installments out of the general fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for the County Judge of Tarrant County. The Commissioners Court of Tarrant County shall provide the necessary funds for payment of the additional salary herein provided. Acts 1961, 57th Leg., p. 672, ch. 311, § 1.

Emergency. Effective June 14, 1961.

Tarrant county court at law no. 1, fees and salaries of judges, see arts. 1970—55, 1970—61.

Similar provisions for Bexar and Lubbock counties, see arts. 3912e—5b, 3912e—5c.

Tarrant county judge, salary, see art. 1970—45.

Art. 3912e—17. Counties of 6,210 to 6,260; compensation of officials

Section 1. In each county in the State of Texas having a population of more than six thousand, two hundred ten (6,210) persons according to the last preceding Federal Census and not more than six thousand, two hundred sixty (6,260) persons according to such Federal Census, and with a taxable valuation for county purposes of not less than Forty-eight Million Dollars (\$48,000,000) according to the tax roll as prepared by the tax assessor-collector of the respective counties for the year of 1960, the Commissioners Courts of such counties are authorized to fix the salaries of county and district officials at a sum of not less than the salary paid for the calendar year of 1960, nor more than Eight Thousand, Five Hundred Dollars (\$8,500) per year.

Sec. 2. All such salaries shall be paid from funds now provided by law for such officials. Acts 1961, 57th Leg., p. 1173, ch. 528.

Effective 90 days after May 29, 1961, date of adjournment.

ing all laws in conflict therewith; and declaring an emergency. Acts 1961, 57th Leg., p. 1173, ch. 528.

Title of Act:

An Act fixing the salaries to be paid certain officials in certain counties; repeal-

Art. 3912e—18. Counties of 13,380 to 13,700; compensation of officers

In each county of the State of Texas having a population of not less than thirteen thousand, three hundred and eighty (13,380) and not more than thirteen thousand, seven hundred (13,700), according to the last preceding Federal Census, the county and district officials are to be compensated as determined by the Commissioners Courts in an amount not to exceed Ten Thousand Dollars (\$10,000), provided no salary shall be set at a figure lower than that actually paid on the effective date of this Act. Acts 1961, 57th Leg., p. 1111, ch. 502, § 1.

Emergency. Effective June 17, 1961.

Art. 3912e—19. Counties of 11,950 to 11,990; compensation of officials

In each county of the State of Texas having a population of not less than eleven thousand, nine hundred fifty (11,950) and not more than eleven thousand, nine hundred ninety (11,990), according to the last preceding Federal Census, and with a taxable valuation for county purposes of not less than Sixty Million Dollars (\$60,000,000) according to the tax rolls



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as prepared by the tax assessor-collector of the respective counties of the year 1960, the county and district officials are to be compensated as determined by the Commissioners Courts in an amount not to exceed Eight Thousand, Five Hundred Dollars (\$8,500), provided no salary shall be set at a figure lower than that actually paid on the effective date of this Act. Acts 1961, 57th Leg., p. 1174, ch. 529, § 1.

Effective 90 days after May 29, 1961, date of adjournment. clarifying an emergency. Acts 1961, 57th Leg., p. 1174, ch. 529.

Title of Act:

An Act fixing the salaries to be paid certain officials in certain counties; and de-

## CHAPTER TWO—ENUMERATION

Art.  
3930a. County Clerk [New].

Art.  
3936f—1. Justices of the peace; maximum fees in counties of 59,000 to 60,000 [New].

### Art. 3913. 3833 to 36 Certain State Officers

The Secretary of State, Land Commissioner, Comptroller, State Treasurer, Commissioner of Agriculture, Banking Commissioner, State Librarian, and the Attorney General, shall furnish to any person who may apply for the same a copy of any paper, document or record in their respective offices, or with a certificate under seal, certifying to any fact or facts contained in the papers, documents or records of their offices unless such paper, document or record is deemed by statute to be confidential or privileged; provided neither of said officers shall demand nor collect any fee from any officer of the state for copies of any papers, documents or records in their offices, or for any certificate in relation to any matter in their offices, when such copies are required in the performance of any of the official duties of such office.

Each of said officers, and all other officers of the state and heads of state departments hereinafter required to collect fees enumerated below, shall deposit all fees received for any service named in this Article in the State Treasury to the credit of the General Revenue Fund, provided, however, that the Banking Commissioner shall deposit such fees received in the manner provided by Section 8 of Chapter 139, Acts of the 52nd Legislature, 1951, and provided further that the Texas Employment Commission shall deposit such fees in accordance with Federal Law.

Each officer named above and all other officers of the state and heads of state departments shall cause to be collected the following fees for the services mentioned, except as otherwise provided by law:

For copies, other than photostatic or photo-copy, of any paper, document, or record in their offices, in the English language, for each page or fraction thereof, One Dollar and Fifty Cents (\$1.50);

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices in any other language than the English, for each page or fraction thereof, Two Dollars (\$2);

For each translated copy of any paper, document, or record in their offices, Three Cents (3¢) per word, provided that no charge shall be less than Five Dollars (\$5);

For the copy of any plat or map in their offices, such fee as may be established by the officer in whose office the same is made, to be deter-

mined with reference to the amount of labor, supplies and materials required;

For each copy by photostatic or other photo process, One Dollar (\$1) per page;

For examinations or search of records in their offices when the state or any county has no interest, for each one-half (1/2) hour or fraction of one-half (1/2) hour spent in such examination or search, One Dollar (\$1);

For each sealed certificate affixed to any of the above, One Dollar (\$1). As amended Acts 1961, 57th Leg., p. 449, ch. 222, § 1.

Emergency. Effective May 25, 1961.

**Art. 3914. 3837, 2439 Secretary of State**

The Secretary of State is authorized and required to charge for the use of the State the following other fees:

For each commission to every officer elected or appointed in this State, Two Dollars (\$2).

For each official certificate, Two Dollars (\$2).

For each warrant of requisition, Two Dollars (\$2).

For each remission of fine or forfeiture, One Dollar (\$1).

For copies of any paper, document, or record in this office, fifty cents (50¢) per legal size page.

For recording each contract for the conditional sale, lease or hire of railroad equipment and rolling stock, and for recording each description of performance of such contract, Five Dollars (\$5); and for entering such declaration on the margin of the record of such contract, One Dollar (\$1).

For recording each certificate of consolidation of cities, and for recording each certificate of adoption of a city charter or amendment under the "Home Rule Act," fifty cents (50¢) per legal size page; provided such fee shall not be less than Two Dollars (\$2). As amended Acts 1961, 57th Leg., p. 463, ch. 230, § 1.

*Repeal of fee provisions, see art. 3930a, note.*

Effective 90 days after May 29, 1961, date of adjournment.

Non-profit corporations, filing fees, see Non-Profit Corporation Act, art. 9.03, pocket part to Vol. 3A.

Business corporations, filing fees, see V. A.T.S. Bus.Corp. Act, art. 10.01.

**Art. 3918. 3842, 2441, 2376 Land Commissioner**

The Land Commissioner is authorized and required to charge, for the use of the state, the following fees:

**FILING FEES.**

Deed transferring one (1) tract of land or a decree of court relating to one (1) tract of land—for each file affected	\$ 3.00
Affidavit of Ownership	3.00
Original Field Notes	3.00
Relinquishment Act Oil and Gas Lease	5.00
Transfer or Release of each Mineral Award, Mineral Prospect Permit, Grazing Lease, or Mineral Lease or part thereof—for each file affected	3.00

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Servicing and Filing Easement-State-owned Land	\$ 5.00
Servicing and Filing Grazing Lease-State-owned Land	1.00
Prospect Permits	1.00

#### PREPARATION OF CERTIFICATES OF FACT.

Certificates of Facts involving examination of one (1) file	4.00
Each additional file	1.50
Each other certificate not otherwise provided for	3.00

#### CERTIFIED PHOTOSTATIC COPIES.

Certificate of the class of Toby Scrip	2.50
All other Land Certificates	1.00
Applications for Survey	1.50
Field Notes, 2 pages or less	1.50
Each additional page of field notes	1.00
Certificate of Correction	1.00
Surveyors' Report—per page	1.00
Mineral Application	1.50
Vacancy Application	2.00
Mineral Permit or Mineral Lease	2.50
Purchase Application and Obligation	1.50
Purchase Application, surveyed land	1.00
Obligation for Deferred Payment on Land	1.00
File Wrapper	1.00
Proof of Occupancy	1.50
Deed, Bond for Title, Power of Attorney, Decree of Court or other similar instrument, 4 pages or less	2.50
Each additional page	1.00
Patent	1.50
Deed of Acquittance	1.50
Affidavit of Settlement, Non-settlement and Rebuttal Affidavits, each	1.00
Other Affidavits	1.50
Grazing Lease Application or Contract	1.50
Letters and Impressions of Letters—One page	1.00
Each additional page	.50
Extract of Muster Roll, Traveling Land Board Reports, Clerk's returns relating to Land Certificates, Patent Delivery Books, School Land Sales, records and books and other similar records, each	2.50
Copy of any record, document or papers in the English language not otherwise provided for herein, per page	1.00
Plain or certified copy of any other paper, document or record in any other language than the English—per page	1.00
Veterans Purchase Contract	2.00
Veterans Title Policy	1.50
Title Opinions, 2 pages or less	1.00
Each additional page	1.00

#### MAPS.

Blue Print, White Print, or other Cloth Map of any county	6.00
Blue or White Print Paper Map of any county	3.00
Blue Print, White Print, or other Cloth Map of an inland bay	7.00

**Art. 3918****REVISED CIVIL STATUTES**

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Blue or White Print Paper Map of an inland bay	\$ 3.50
Blue Print, White Print, or other Cloth Map of Gulf of Mexico	10.00
Blue or White Print Paper Map of Gulf of Mexico	5.00
Certificate on either Cloth or Paper Map	1.00
Plain or certified copy of a portion of a map or sketch or plat made by print or hand, and for a working sketch, the fee shall be determined by the amount of material used and the time consumed, at the rate of, per hour	3.00
When an examination of the records of the General Land Office, other than maps or filed papers, is desired by one (1) person or where search is necessary to compile information, minimum fee to be charged of One Dollar (\$1); and if the information is extended beyond thirty (30) minutes, an additional sum shall be charged at the rate of, per hour (except where examination is made for the purpose of purchasing copies)	2.00

**MAPS AND SKETCHES.**

18" x 10"	1.00
18" x 12"	1.25
18" x 15"	1.50
18" x 20"	2.00
18" x 24"	2.50

**SPANISH TRANSLATIONS.**

Translation of any Spanish document such as Titles and field notes, Three Cents (3¢) per word, provided that no charge shall be less than	5.00
Certificate of Fact concerning Spanish Titles	5.00

**PATENT AND DEED OF ACQUITTANCE FEES.**

Patent Fee	15.00
Deed of Acquittance Fee	15.00

As amended Acts 1955, 54th Leg., p. 1120, ch. 416, § 1; Acts 1961, 57th Leg., p. 453, ch. 225, § 1.

Emergency. Effective May 25, 1961.

Art. 3919. Repealed. Acts 1961, 57th Leg., p. 449, ch. 222, § 2. Eff. May 25, 1961

See, now, art. 3913.

Art. 3930. 3860, 2457, 2393. County clerk

*Repeal of fee provisions, see art. 3930a, note.*

Section 1 of Acts 1961, 57th Leg. p. 1099, thereto a new Section to be identified as ch. 495 amended this article by adding Article 3930a. See article 3930a, post.

**Art. 3930a. County Clerk**

County clerks and clerks of the county courts in counties having one million, two hundred thousand (1,200,000) or more population, according to the latest Federal Census, are hereby authorized to receive the following fees for their services in lieu of all other fees authorized by statute, provided the Commissioners Court of an otherwise qualified county shall

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pass an order, at the written request of said clerk, adopting and applying the provisions of this Act to said clerk:

(a) For filing, or filing and registering, or filing and recording, each instrument, document, paper, or record (except subpoenas and other process issued by the county clerk or the clerk of the county court of the county in which the same is filed or filed and recorded) authorized, permitted, or required to be filed or filed and registered or filed and recorded:

For the first page, a fee of .....	\$2.50
Plus, for each additional page, or part of a page, on which there are visible marks of any kind, an additional fee of .....	\$1.50
Plus, for each attachment or rider, an additional fee of .....	\$1.50
Plus, for each additional name that has to be indexed in excess of a total of twenty (20) names indexed for all records in which said instrument, document, paper or record must be indexed, an additional fee, for each additional name, of .....	\$0.50

(b) For issuing, including recording of the return thereon, each citation, subpoena with not to exceed five names of witnesses in the same subpoena, execution, order, writ, process or any other instrument, document, or paper authorized, permitted, or required to be issued by said county clerk or said clerk of the county courts and on which a return must be recorded:

For the first page, or part of a page a fee of .....	\$3.50
For each additional page, or part of a page, an additional fee of .....	\$2.00
For each additional copy of each page, or part of a page, an additional fee of .....	\$0.50

(c) For issuing each page, or part of a page, of each certificate, certified copy (except certified copy of map records), notice, statement, commission to take depositions, letters, abstract of judgment, license where the fee for issuing the license is not specifically provided by statute, or any other instrument, document, or paper authorized, permitted, or required to be issued by said county clerk and said clerk of the county courts, except as otherwise provided in this Section:

For each page, or part of a page, a fee of .....	\$2.00
For each additional copy of each page, or part of a page, an additional fee of .....	\$1.00

(d) For docketing each application, complaint, petition, or proceeding and including the issuing of bills-of-cost or vouchers for each instrument filed in a cause (to be charged but once) .....

\$5.00

(e) For each appearance in court, as clerk of the court, for each docket heard, including, when required, swearing and impaneling jury; swearing each witness; administering clerical duties in connection therewith; for each such appearance for each docket heard, a fee for each case or cause on the docket .....

\$3.00

(f) For entering each claim against an estate on the claim docket, a fee against the estate of .....

\$2.00

(g) For approving bond, except notarial bond, a fee of .....

\$5.00

(h) For clerical work in having appointment of notary public made, approving and filing notarial bond and qualifying notary public, a fee of (does not include a fee to Secretary of State) .....

\$3.00

(i) For issuing and recording marriage license, including all costs for application, filing health certificates, and recording return, a fee of .....

\$5.00

(j) For taking depositions: a fee, per hour, for the time required of ----- \$5.00/hour

(k) For administering oaths under seal of clerk ----- \$0.50

(l) For such other duties as may be prescribed by the Legislature, reasonable fees shall be charged. Added Acts 1961, 57th Leg., p. 1099, ch. 495, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

*Section 2 of the act of 1961 provided:*

*"All laws or parts of laws in conflict with the provisions of this Act are hereby repealed as to such counties adopting the provisions hereof as set out in Section 1 hereinabove, to the extent of conflict only, including but not limited to the fee provisions of Articles 260—1, 843, 848, 912a—10, 950, 951, 1285, 3914, 3930, 4477—Rule 51a, 4524, 4546, 4562, 4590d, 5238, 5333, 5447, 5451, 5498, 5506a, 5506c, 5925, 5926, 6635, 6636, 6641, 6644, 6662, 6898, 6899—1, 6927, 7328, 7362, and 7517, Revised Civil Statutes of Texas, 1925, as amended."*

Art. 3936f—1. Justices of the peace; maximum fees in counties of 59,000 to 60,000

Section 1: In all counties of this State having a population of more than fifty-nine thousand (59,000) and not more than sixty thousand (60,000) persons according to the last preceding Federal Census, justices of the peace shall receive maximum fees of Four Thousand, Nine Hundred Dollars (\$4,900) each per year.

Sec. 2. The Commissioners Court is hereby authorized and it shall be their duty to see that all justices of the peace can collect and keep on a fee basis, Four Thousand, Nine Hundred Dollars (\$4,900) per year, other fees exceeding this amount to be turned over to the county to be credited to the Road and Bridge Fund of that county. Acts 1961, 56th Leg., p. 1138, ch. 516.

Emergency. Effective June 17, 1961.

**TITLE 65—FRAUDS AND FRAUDULENT CONVEYANCES****Art. 4001. 3971 Sales in bulk**

The sale or transfer in bulk of any part or the whole of the materials, supplies, stock of merchandise or other inventory, including, but not limited to, meat and other edible foods furnished to restaurants, cafes and cafeterias, or merchandise and fixtures pertaining to the conducting of said business otherwise than in the ordinary course of trade, and in the regular prosecution of the business of the seller or transferor, shall be void as against the creditors of the seller or transferor, unless the purchaser or transferee demand and receive from the transferor a written list of names and addresses of the creditors of the seller or transferor with the amount of the indebtedness due or owing to each and certified by the seller or transferor under oath to be a full, accurate and complete list of his creditors, and of his indebtedness; and unless the purchaser or transferee shall at least ten (10) days before taking possession of such merchandise or merchandise and fixtures, or paying therefor, notify personally or by registered mail each creditor whose name and address is stated in said list, or of which he has knowledge, of the proposed sale and of the price, terms and conditions thereof. Any purchaser or transferee who shall not conform to the provisions of this law shall, upon application of any of the creditors of the seller or transferor become a receiver, and be held accountable to such creditors for all goods, wares, merchandise and fixtures that have come into his possession by virtue of such sale or transfer. As amended Acts 1961, 57th Leg., p. 703, ch. 328, § 1.

Effective 90 days after May 29, 1961, date of adjournment.      gation pending as of the effective date of this Act."

Section 2 of the amendatory Act of 1961 provided: "This Act does not apply to liti-

**TITLE 67—FISH, OYSTER, SHELL, ETC.**

**CHAPTER ONE—COMMISSIONER AND DEPUTIES**

**Art. 4016. The Commissioner**

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

**CHAPTER TWO—FISH AND OTHER MARINE LIFE**

**Article 4026. Property of State**

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

**Art. 4039. Limiting location**

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415c.



**TITLE 70—HEADS OF DEPARTMENTS**

<b>Chap.</b>		<b>Art.</b>
<b>4-C.</b>	<b>Southern Interstate Nuclear Compact [New]</b> -----	<b>4413C—1</b>

**CHAPTER ONE—SECRETARY OF STATE**

**Art. 4341a. Contracts with Federal Government; state agencies and subdivisions to file copies**

Adoption and filing of rules and regulations of state administrative agencies, see art. 6252—13.

**CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS**

**Art. 4344b. Purpose; construction of laws; reorganization and consolidation of divisions; electronic data processing center**

State agencies, use of electronic data processing center, see art. 6252—12.

**CHAPTER FOUR—SOUTHERN INTERSTATE NUCLEAR COMPACT**

**Art. 4413c—1. Southern Interstate Nuclear Compact [New].**

**Art. 4413c—1. Southern Interstate Nuclear Compact**

Nuclear and radioactive materials, licensing, see art. 4590f.

**Enactment and terms of compact**

Section 1. The Southern Interstate Nuclear Compact is hereby enacted into law and entered into by this state with any and all states legally joining therein in accordance with its terms, in the form substantially as follows:

**SOUTHERN INTERSTATE NUCLEAR COMPACT**

**Article I. Policy and Purpose.**

The party states recognize that the proper employment of nuclear energy, facilities, materials, and products can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from and acquisition of nuclear resources and facilities requires systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and the framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the region's people.

## Article II. The Board.

(a) There is hereby created an agency of the party states to be known as the "Southern Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provision therefore. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a Chairman, a Vice-Chairman, and a Treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state of the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state of the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize and dispose of the same.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

and shall also file a copy of any amendment thereto, with the appropriate agency or officer of each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

#### Article III. Finances.

(a) The Board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of this jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial Federal Census; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the Federal Census-Taking Agency. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II (h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection.

#### Article IV. Advisory Committees.

The Board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal gov-

ernment, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

#### Article V. Powers.

The Board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the South with respect to nuclear and related industries.

(b) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(c) Collect, correlate, and disseminate information relating to civilian uses of nuclear energy, materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

(1) Nuclear industry, medicine, or education or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any manner related to the development, use or disposal of nuclear energy, materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of nuclear product, material, or equipment use and disposal and of proper techniques or procedures for the application of nuclear resources to the civilian economy or general welfare.

(f) Undertake such non-regulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(i) Prepare, publish and distribute, (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the Atomic Energy Commission or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with

nuclear incidents. The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

#### Article VI. Supplementary Agreements.

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

#### Article VII. Other Laws and Relationships.

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

#### Article VIII. Eligible parties, Entry into Force and Withdrawal.

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

#### Article IX. Severability and Construction.

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

#### Member of board; appointment; term; deputy

Sec. 2. The Governor shall appoint one member of the Southern Interstate Nuclear Board as established by Article II of the compact. Said member shall serve at the pleasure of the Governor. If said member of the Board shall be the head of a regularly constituted department or agency of this state, he may designate a subordinate officer or employee of his department or agency to serve in his stead as permitted by Article II(a) of the compact and in conformity with any applicable bylaws of the Board.

#### Coordination of atomic activities; Atomic Energy Advisory Committee

Sec. 3. (a) The member of the Board appointed and serving in accordance with Section 2 of this Act shall assist in the coordination of atomic activities within this state.

(b) The Governor may appoint an Atomic Energy Advisory Committee to consult and advise in the coordination of atomic activities. Said Committee shall consist of not to exceed fifteen (15) persons; two of whom shall be members of the Senate; two of whom shall be members of the House of Representatives; and the remaining members of which shall be chosen from among citizens of this state whose public or private positions, training and experience give them knowledge of and competence in fields related to the development and use of atomic energy, materials or products.

(c) The Board member is hereby authorized and empowered to assist in the orderly development of atomic knowledge within the State of Texas.

**HEADS OF DEPARTMENTS · Art. 4413(33)**

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Budgets of estimated expenditures**

Sec. 4. Pursuant to Article III(a) of the compact, the Board shall submit its budgets of estimated expenditures to the Governor and Legislative Budget Board for presentation to the Legislature.

**Additional funds; supplementary agreements**

Sec. 5. Any supplementary agreement entered into pursuant to Article VI of the compact and requiring the expenditure of funds or the assumption of an obligation to expend funds in addition to those already appropriated shall not become effective as to this state prior to the making of an appropriation by the Legislature therefor.

**Cooperation of state departments, agencies and officers**

Sec. 6. The departments, agencies and officers of this state and its subdivisions are hereby authorized to cooperate with the Southern Interstate Nuclear Board in the furtherance of any of its activities pursuant to the compact. Acts 1961, 57th Leg., p. 93, ch. 54.

Emergency. Effective March 30, 1961.

South Central Interstate Forest Fire Protection Compact, see art. 2613c.

**CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY****Art. 4413(33). The Headquarters Division**

Adoption and filing of rules and regulations of state administrative agencies, see art. 6252—13.

TITLE 71—HEALTH—PUBLIC

Chap.	Art.
19. Nuclear and Radioactive Materials [New] .....	4590f

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art. 4419c. Crippled children, restoration service for; Crippled Children's Division's powers; transfer of funds; federal funds

Creation of service; aid to needy children distinguished

Section 1. There is hereby created in the State Department of Health a physical restoration service for crippled children under twenty-one (21) years of age. This service shall make provisions for locating, examining and physically restoring crippled children of the State as hereinafter provided. The physical restoration service herein provided for crippled children is separate and distinct from the assistance or aid to needy children. As amended Acts 1961, 57th Leg., p. 33, ch. 21, § 1.

Powers of Crippled Children's Division; administration of properties; rules and regulations

Sec. 3. The Crippled Children's Division of the State Department of Health is empowered to take census, make surveys and establish permanent records of crippled children; to procure medical and surgical service for crippled children, provided that only physicians legally qualified to practice medicine and surgery in Texas be employed for purposes of diagnosis and treatment, that not more than the customary minimum fees be paid for such services, and that physicians or surgeons so employed shall be approved by the State Board of Health as qualified to render such service; to select and designate hospitals for the care of crippled children contemplated by this Act, and to take such other steps as may be necessary in order to accomplish the purposes of this Act.

At the discretion of the State Department of Health, transportation, appliances, braces and material necessary in the proper handling of crippled children may be in part or entirely provided. Such appliances, braces and material, being a part of the care and treatment program and necessary to the physical restoration of the individual crippled child as defined in this Act, shall not be considered to be state-owned personal property and shall be excluded from the personal property inventory required of state-owned property; and all such property including appliances, braces, and materials, being a part of the care and treatment program, and which are now being accounted for under the provisions of the present system of accounting shall be deleted from and not required after the passage and effective date of this Act. The State Department of Health, however, shall maintain at all times a complete record of such appliances, braces and materials provided and such records shall be verified by the State Auditor.

The State Department of Health is directed to provide in Rules and Regulations, the necessary details for the conduct of this work, in accordance with the purposes of this Act, which shall permit as far as possible, the free choice of patients in their selections of physicians and hospitals, and shall arrange with hospitals, brace departments and other services providing for crippled children's work, compensation for such services, provided that such fees or charges shall not exceed the average charges for the same services rendered to patients in the hospitals ap-



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

proved for purposes of this Act. As amended Acts 1961, 57th Leg., p. 33, ch. 21, § 2.

Emergency. Effective March 10, 1961.

Rehabilitation of severely physically disabled Texas citizens, see art. 2675—1, § 3.

#### Art. 4437. Hospitals

Texas uniform facsimile signature of public officials act, see art. 717j—1.

Art. 4444. Repealed. Acts 1961, 57th Leg., 1st C.S., p. 156, ch. 42, § 14.  
Eff. Nov. 1, 1962

See, now, art. 7621d.

### CHAPTER THREE—FOOD AND DRUGS

Art. 4476—5. Texas Food, Drug and Cosmetic Act [New].

#### Art. 4469. Registration

All manufacturers of foods and drugs doing business in the State of Texas and all such persons, firms, corporations, who import or bring into the State of Texas, for sale or distribution, from any place not a part or possession of the United States any article of food, drug or chemical, shall annually register with the State Department of Health and pay a fee of One Dollar (\$1.00) for such registration on or before the 1st day of September. Where a person, firm or corporation operates more than one establishment, then a separate registration and fee shall be required for each establishment operated.

The term "manufacture" as used in this Article shall mean the process of combining or purifying articles of food or drugs and packaging same for sale to the consumer, either by wholesale or retail, provided, however, that a pharmacist, registered under the laws of this state, shall not be deemed a manufacturer, when he fills a regular licensed physician's prescription, or when such pharmacist compounds or mixes drugs or medicines in his professional capacity. Any person, firm or corporation who represent themselves as responsible for the purity and the proper branding of any article of food or drug, by placing or having placed their name or names and address upon the label of any food or drug, shall be deemed a manufacturer and included within the meaning of this Article. Any person, firm or corporation who imports into this state from any place not within the continental limits of the United States, any article of food or drug, shall be importers within the meaning of this Article.

All registration fees received by the State Health Department shall be deposited in the State Treasury to the credit of the General Revenue Fund and shall be expended only upon appropriation by the Legislature. As amended Acts 1961, 57th Leg., p. 839, ch. 375, § 1.

Emergency. Effective June 17, 1961.

Arts. 4470—4473. Repealed. Acts 1961, 57th Leg., p. 823, ch. 373, § 24.  
Eff. 90 days after May 29, 1961, date of adjournment

See, now, Texas Food, Drug and Cosmetic Act, art. 4476—5.

**Art. 4474. Milk**

Texas Equal Health Standard Milk Sanitation Act of 1961, see art. 165—3a.

**Art. 4476—5. Texas Food, Drug and Cosmetic Act****Citation of act**

Section 1. This Act may be cited as the Texas Food, Drug and Cosmetic Act.

**Definitions**

Sec. 2. For the purpose of this Act:

(a) The term "Commissioner of Health" means the Commissioner of Health of the State of Texas.

(b) The term "person" includes individual, partnership, corporation, and association.

(c) The term "food" means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles designed or intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man; and (3) articles (other than food) intended to affect the structure of any function of the body of man; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts or accessories.

(e) The term "devices" (except when used in paragraph (k) of this Section and in Section 3(g), 11(f), 15(c), and 18(c)), means instruments, apparatus and contrivances, including their components, parts and accessories, designed or intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man; or (2) to affect the structure or any function of the body of man.

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of such articles, except that such term shall not include soap.

(g) The term "official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(h) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

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(k) If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual.

(l) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

(m) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

(n) The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(o) The term "contaminated" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(p) The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment.

(q) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.).

(r) The term "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, containing not less than eighty per centum (80%) by weight of milk fat, all tolerances having been allowed for.

(s) The word "package" shall include, and be construed to include, wrapped meats enclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(t) The term "pesticide chemical" means any substance which, alone, in chemical combination or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., secs. 135-135K) as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

(u) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(v) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

- (1) A pesticide chemical in or on a raw agricultural commodity; or
- (2) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
- (3) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the Federal Food, Drug and Cosmetic Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260) as amended and extended (21 U.S.C. 71 and the following).

#### Unlawful and prohibited acts

Sec. 3. The following acts and the causing thereof within the State of Texas are hereby declared unlawful and prohibited:

- (a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;
- (b) The adulteration or misbranding of any food, drug, device, or cosmetic;
- (c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of Sections 12 or 16;
- (e) The dissemination of any false advertisement. By false advertising is meant all misrepresentations disseminated in any manner or by any means other than the labeling for the purpose of inducing or which are likely to induce directly or indirectly the purchase of food, drugs, devices or cosmetics;
- (f) The refusal to permit entry or inspection, or to permit the taking of samples, as authorized by Section 21;
- (g) The giving of a guaranty or undertaking, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic;
- (h) The removal or disposal of a detained article in violation of Section 6;

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(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded;

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this Act;

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under Section 16, or that such drug complies with the provisions of such Section;

(l) The acceptance by any person of an unused prescription or drug, in whole or in part, after it has been originally dispensed or sold, for the purpose of resale to any person.

#### Injunction against violations

Sec. 4. In addition to the remedies hereinafter provided the Commissioner of Health is hereby authorized to apply to any district court where the offense occurred for, and such court shall have jurisdiction after due notice and show cause hearing to grant, a temporary or permanent injunction restraining any person from violating any provision of Section 3; irrespective of whether or not there exists an adequate remedy at law.

#### Violation a misdemeanor; penalties

Sec. 5. (a) Any person who violates any of the provisions of Section 3 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00); and for the second or subsequent offense shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or imprisonment in the county jail for a period of not more than one year, or both such fine and imprisonment.

(b) No person shall be subject to the penalties of Subsection (a) of this Section, for having violated Section 3(a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this Section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the Commissioner of Health to furnish the Commissioner of Health the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States who caused him to disseminate such advertisement.

#### Detention and condemnation of product

Sec. 6. (a) Whenever a duly authorized agent of the Commissioner of Health finds or has good reason to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous

within the meaning of this Act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained, and warning all persons not to remove from the premises or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove from the premises or dispose of such detained article by sale or otherwise without such permission. In the case of perishable goods, such goods may be moved with the permission of the Commissioner of Health, or his agent, to a place suitable for proper storage.

(b) When an article detained under Subsection (a) has been found by such agent to be adulterated, or misbranded, the Commissioner of Public Health or his agent shall petition the judge of the county or district court in whose jurisdiction the article is detained for an order for condemnation of such article. When such agent has found that an article so detained is not adulterated or misbranded, he shall promptly remove the tag or other marking.

(c) If the court finds that a detained article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Commissioner of Health. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner of Health that the article is no longer in violation of this Act.

(d) Whenever the Commissioner of Health or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, sea food, poultry, vegetable, or fruit which is unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the Commissioner of Health, or his authorized agent, shall forthwith condemn, or in any manner render the same unsalable as human food.

#### Criminal proceedings; notice

Sec. 7. (a) It shall be the duty of each district attorney or county attorney, to whom the Commissioner of Health reports any violation of this Act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

(b) If it is found that the detained article is adulterated or misbranded and such article is voluntarily destroyed or decreed to be destroyed, no criminal proceeding shall follow against the owner or claimant thereof before such person shall be given appropriate notice and an opportunity to present his views before the Commissioner of Health and show cause either orally or in writing why such criminal action should not be instituted.

**Minor violations; notice or warning**

Sec. 8. Nothing in this Act shall be construed as requiring the Commissioner of Health to report for the institution of proceedings under this Act, minor violations of this Act, whenever the Commissioner of Health believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

**Regulations; duty to promulgate**

Sec. 9. Whenever in the judgment of the Commissioner of Health such action will promote honesty and fair dealing in the interest of consumers, the Commissioner of Health shall promulgate regulations of general application fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Commissioner of Health shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

**Adulterated food**

Sec. 10. A food shall be deemed to be adulterated:

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) (A) if it bears or contains any added poisonous or added deleterious substance (except a pesticide chemical in or on a raw agricultural commodity and except a food additive) which is unsafe within the meaning of Section 13; or (B) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 13, or (C) if it is, or it bears or contains, any food additive which is unsafe within the meaning of Section 13: provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 13, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of Section 13 and clause (C) of this Section, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food, when ready to eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for foods; or (4) if it has been produced, prepared, packed or held under unsanitary conditions whereby it may have become contaminated, or whereby it may have been rendered injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or (5) if it contains saccharin, dulcin, glucin, or other sugar substitutes except in dietary foods, and when so used shall be declared; or (6) if it be fresh meat and it contains any chemical substance containing sulphites, sulphur dioxide, or any other chemical preservative which is not approved by the United States Bureau of Animal Industry or the Commissioner of Health.

(c) If it is confectionery and it bears or contains any alcohol or non-nutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per centum, harmless natural gum, and pectin; provided, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of one per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substances.

(d) If it bears or contains a coal-tar color other than one certified under authority of the Federal Act.

#### Misbranded food

Sec. 11. A food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular;

(b) If it is offered for sale under the name of another food;

(c) (1) If it is an imitation of another food unless its label bears the word imitation; (2) In type of uniform size and prominence and immediately thereafter the name of the food imitated; (3) Except in cases of mixtures and compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced. No one administering this law may constitute oleomargarine as an imitation of butter;

(d) If its container is so made, formed, or filled as to be misleading;

(e) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the content in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Commissioner of Health;

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by Section 9, unless (1) it conforms to such definition and stand-



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ard, and (2) its label bears the name of the food specified in the definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(h) If it purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by regulations as provided by Section 9, and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) A food for which a standard or standards of fill of container have been prescribed by regulations as provided by Section 9, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(i) If it is not subject to the provisions of paragraph (g) of this Section, unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredients; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided that, to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Commissioner of Health; provided further, that the requirements in paragraphs (c) (2), and (e) (1) shall not apply to any bottled carbonated drinks or still soft drinks and, provided further, that clause (2) of paragraph (i) shall not apply to any bottled carbonated drinks or still soft drinks or the dispensing of carbonated soft drinks or still soft drinks in single service cups. Nothing in this law shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas except in so far as the provisions of this law require to secure freedom of adulteration or misbranding;

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Commissioner of Health determines to be, and by regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses;

(k) If it bears or contains any artificial flavorings, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that, to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Commissioner of Health. The provisions of this paragraph and paragraph (g) and (i) with respect to artificial coloring is not to apply in the case of butter, cheese and ice cream.

#### Emergency Permit Control

Sec. 12. (a) Whenever the Commissioner of Health finds after investigation that the distribution in Texas of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce it then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, or permits to which shall

be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the Commissioner of Health as provided by such regulations.

(b) The Commissioner of Health is authorized to suspend immediately upon notice any permit issued under authority of this Section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the Commissioner of Health shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(c) Any officer or employee duly designated by the Commissioner of Health shall have access to any factory or establishment, the operator of which holds a permit from the Commissioner of Health for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

**Poisonous or deleterious substance added to food;  
regulation by Commissioner**

Sec. 13. Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof, cannot be avoided by good manufacturing practice, or serves a useful purpose, shall be deemed to be unsafe for purposes of the application of clause (2) of Section 10(a); but when such substance is so required, cannot be so avoided, or serves a useful purpose, the Commissioner of Health shall promulgate regulations limiting the quantity therein or thereon to such extent as the Commissioner of Health finds necessary for the protection of public health; and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of Section 10(a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1), Section 10 (a). In determining the quantity of such added substance to be tolerated in or on different articles of food, the Commissioner of Health shall take into account the extent to which the use of such substance is required, cannot be avoided in the production of each such article, or serves a useful purpose, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

**Adulterated drug or device**

Sec. 14. A drug or device shall be deemed to be adulterated

(a) (1) If it consists in whole or in part of any filthy, putrid, decomposed substance, or defective material; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated, or whereby it may have been rendered injurious to health, or whereby it may have become or have been rendered incapable of, or unsuitable for, the purpose for which it was designed

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or intended; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified under the authority of the Federal Act.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia;

(c) If it is not subject to the provision of paragraph (b) of this Section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess;

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor; provided, that this Subsection shall not apply to registered pharmacists compounding and dispensing physicians' prescriptions.

#### Misbranded drug or device

Sec. 15. A drug or device shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular;

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the Commissioner of Health;

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative has been by the Commissioner of Health after investigation, found to be, and by regulations under this Act, designated as habit forming, unless its label bears the

name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement, "Warning: May be habit forming";

(e) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis glucosines, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemption shall be established by regulations promulgated by the Commissioner of Health;

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Commissioner of Health shall promulgate regulations exempting such drug or device from such requirements;

(g) If it purports to be a drug the name of which is recognized in the official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the Commissioner of Health. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia;

(h) If it has been found by the Commissioner of Health to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Commissioner of Health shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the Commissioner of Health shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements;

(i) (1) If it is a drug or device and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug or device; or (3) if it is offered for sale under the name of another drug or device;

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;

(k) (1) If it is a drug sold at retail and contains any quantity of amidopyrine, barbituric acid, pituitary, thyroid, or their derivatives;

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or (2) if it is a drug or device sold at retail and its label bears a statement that it is to be dispensed or sold only by or on the prescription of a physician, dentist or veterinarian licensed to practice in this state; unless it is sold on a prescription by a member of the medical, dental, or veterinary profession who is licensed by law to administer such drug or device, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession. Such prescription shall not be refilled except on the authorization of the prescribing physician, dentist or veterinarian. This Subsection shall not apply to a drug containing one or more of the derivatives of barbituric acid and in addition a sufficient quantity or proportion of another drug or drugs to prevent the ingestion of a sufficient amount of barbituric derivative to cause an hypnotic or somnifacient effect.

**Sale or gift of new drug; application; test of drug**

Sec. 16. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has become effective under Section 505 of the Federal Act; or (2) when not subject to the Federal Act unless such drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the Commissioner of Health an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use; (b) a full list of the articles used as components of such drugs; (c) a full statement of the composition of such drug; (d) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the Commissioner of Health may require; and (f) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in Subsection (a) (2) shall become effective on the 60th day after the filing thereof, except that if the Commissioner of Health finds after due notice to the applicant and giving him an opportunity for hearing, that the drug is not safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) This Section shall not apply:

(1) To a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs, provided the drug is plainly labeled "For investigational use only"; or

(2) to a drug sold in this state at any time prior to the enactment of this Act or introduced into inter-state commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the virus, serum, and toxin Act of July 1, 1902 (U.S.C. 1934 cd.<sup>1</sup> Title 42, Chap. 4).

(d) An order refusing to permit an application under this Section to become effective may be revoked by the Commissioner of Health.

<sup>1</sup> So in enrolled bill.

Adulterated cosmetic

Sec. 17. A cosmetic shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual; provided, that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon; "Caution: This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness"; and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes;

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance;

(c) If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one certified under authority of the Federal Act.

Misbranded cosmetic

Sec. 18. A cosmetic shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular;

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the Commissioner of Health;

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(d) If its container is so made, formed, or filled as to be misleading.

False advertisement

Sec. 19. (a) An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular;

(b) For the purpose of this Act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, men-

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ingitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not in violation of Subsection (a) shall be deemed to be false under this Subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices; provided, that whenever the Commissioner of Health determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the Commissioner of Health shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the Commissioner of Health may deem necessary in the interest of public health; provided, that this Subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

Regulations, authority to promulgate; violation of regulation; hearings; notice; appeals; action in district court of Travis county

Sec. 20. (a) The authority to promulgate reasonable and necessary regulations, not inconsistent with any provision of this Act, for the efficient enforcement of this Act is hereby vested in the Commissioner of Health. The violation of a regulation promulgated under this Act shall be deemed to be a violation of this Act.

(b) Hearings authorized or required by this Act shall be conducted by the Commissioner of Health or such officer, agent, or employee as the Commissioner of Health may designate for the purpose.

(c) Before promulgating any regulations, the Commissioner of Health shall give thirty (30) days notice of the proposal and of the time and place for a hearing thereon by publishing such notice in a newspaper of general circulation within the state and the Commissioner of Health shall place any person, firm or corporation so desiring said notices on a state mailing list which said list shall entitle said holder to a copy of any notice of any regulation to be promulgated. To be entitled to receive such notices, said holder shall first pay in advance, an annual service charge to be determined by the Commissioner of Health, which same shall not be more than Five Dollars (\$5.00), except that the public hearing on regulations under Section 12 may be held at a time, to be fixed by the Commissioner of Health, after notice thereof. The regulation so promulgated shall become effective on a date fixed by the Commissioner of Health (which date shall not be prior to the ninetieth (90) day after its promulgation), except that if the Commissioner of Health finds that emergency conditions exist necessitating an earlier effective date, then the Commissioner of Health shall specify in the order his findings as to such conditions and the order shall take effect at such earlier date as the Commissioner of Health shall specify therein to meet the emergency. Such regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the Commissioner of Health, to such an extent as he deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.

(c-1) In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstance shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, then in that event such appeals shall be as provided in Section 20(d) of this Act. It is specifically provided hereby that Section 20(d) of this Act shall not be operative unless and until the appeal as provided by Section 20(c-1) is held invalid, unconstitutional or inoperative.

(d) If any party at interest be dissatisfied with any act, order, ruling or decision of the Commissioner of Health in connection with the administration of this Act, such party may file an action, naming the Commissioner of Health as defendant, in any of the district courts of Travis County to set aside the particular act, order, ruling or decision. The cause shall be tried by the court without a jury in the same manner as civil actions generally and all fact issues material to the validity of such act, order, ruling or decision shall be re-determined in such trial on the preponderance of the competent evidence but no evidence shall be admissible which was not either tendered to the Commissioner of Health or on file in his office while the matter was pending before him for decision. The burden of proof shall be on the plaintiff and judgment shall be entered by the court declaring the action, order, ruling or decision in question either valid or invalid. Appeals from any final judgment may be taken in the manner provided for in ordinary civil actions generally. No appeal bond shall be required by the Commissioner of Health. All acts, orders, rulings and decisions of the Commissioner of Health shall be final unless an action to set aside as herein authorized is filed within thirty (30) days after the action, order, ruling or decision is taken or made by the Commissioner of Health.

**Inspection by Commissioner of factory, warehouse, establishment or vehicle; samples, Commissioner's right to obtain.**

Sec. 21. The Commissioner of Health or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed, stored or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this Act are being violated; and

(2) to secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such samples. It shall be the duty of the Commissioner of Health to make or cause to be made examinations of samples secured under the provisions of this Section to determine



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whether or not any provision of this Act is being violated. Whenever samples are secured by the Commissioner of Health or his agent, an equal amount of the product sampled, may upon request, be given to the person who has custody of the product sampled; payments shall be made only for that portion of the sample actually taken by the said Commissioner or agent.

**Publication of reports summarizing judgments, decrees and court orders; dissemination of information**

Sec. 22. (a) The Commissioner of Health may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Act, including the nature of the charge and the disposition thereof.

(b) The Commissioner of Health may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the Commissioner of Health deems necessary in the interest of public health and the protection of the consumer against fraud. Acts 1961, 57th Leg., p. 823, ch. 373.

Effective 90 days after May 20, 1961, date of adjournment.

Texas Equal Health Standard Milk Sanitation Act of 1961, see art. 165—3a.

City inspection of food and drugs, see art. 1015(5).

Unwholesome food, drink or medicine, see Vernon's Ann.P.C. art. 710 et seq.

Seizure and destruction of unwholesome food, see Vernon's Ann.C.C.P. art. 109.

### CHAPTER THREE A—BEDDING

#### Article 4476a. Bedding—Manufacture, repair or renovating

##### Permits

Sec. 6. (a) No person shall engage in the business of manufacturing, repairing, renovating, and selling any bedding unless he shall have obtained a permit from the Department.

(b) No person shall be considered to have qualified to apply an acceptable germicidal process until such process has been registered with and approved by the Department, after which a numbered permit shall then be issued by the Department. Such permit shall expire one year from date of issue and shall thereafter be annually renewed at the option of the permit holder upon submission of proof of continued compliance with the provisions of this Act and the regulations of the Department. Every person to whom a permit has been issued shall keep such permit conspicuously posted on the premises of his place of business near the treatment device. Holders of permits to apply germicidal treatment shall be required to keep an accurate record of all materials which have been subjected to germicidal treatment, including the source of material, date of treatment, and name and address of the buyer of each, and such records shall be available for inspection at any time by authorized representatives of the Department.

(c) For all initial permits issued, as required by the preceding paragraph (a) of this Section, there shall, at the time of issuance thereof, be paid by the applicant to the Department, a fee of Fifteen Dollars (\$15). An annual renewal charge of Ten Dollars (\$10) shall be paid to the same Department.

(d) For all initial permits issued, as required by the preceding paragraph (b) of this Section, there shall, at the time of issuance thereof, be paid by the applicant, to the Department, a fee of Fifteen Dollars (\$15). An annual renewal charge of Ten Dollars (\$10) shall be paid to the same Department.

(e) Any permit issued in accordance with the provisions of this Act may be revoked by the Commissioner of Health, after a hearing, and upon proof of violation of any of the provisions of this Act. As amended Acts 1961, 57th Leg., p. 262, ch. 137, § 1.

Emergency. Effective May 15, 1961.

#### CHAPTER FOUR—SANITARY CODE

##### Art. 4477. Sanitary code

**Rule 51a. Blanks and registration forms; index of births and deaths; records; transcripts; fees; delayed registrations, judicial procedure to establish facts of birth**

*Repeal of fee provisions, see art. 3930a, note.*

**Rule 54a. Copies of records.**—Subject to the regulations of the State Department of Health controlling the accessibility of vital records, the State Registrar shall, upon request, supply to any properly qualified applicant a certified copy of a record, or any part thereof, registered under the provisions of this Act,<sup>1</sup> for the making and certification of which he shall be entitled to a fee of One Dollar and Fifty Cents (\$1.50) to be paid by the applicant; provided, that such certified copies shall be issued in only such form as approved by the State Department of Health. And any such copy of a record, when properly certified by the State Registrar, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files where a record is not found or a certified copy is not made, the State Registrar shall be entitled to a fee of One Dollar and Fifty Cents (\$1.50), said fee to be paid by the applicant. The State Registrar shall, upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment. The State Registrar shall issue free of cost to any veteran, his widow, orphan or other dependents, a certified copy of any record not otherwise prohibited by law when such record is to be used in the settlement of a claim against the government. The State Registrar may issue, upon court order, without fee, a certified copy of a birth record in cases relating to child labor and the public schools. Provided, that the national agency in charge of the collection of vital statistics may obtain, without expense to the state, transcripts of vital records without payment of the fees herein prescribed; and provided further, that the State Registrar is hereby authorized to act as special agent for that agency in accepting the use of the franking privilege and blanks furnished by that agency; and provided further, that the Bureau of Vital Statistics of the State Department of Health is hereby authorized to enter into a contract with the national agency in charge of the collection of vital statistics in order to have transcribed for that agency copies of vital records filed with the State Bureau of Vital Statistics. The State Registrar shall keep a true and correct account of all money received by him under these provisions, and deposit the same with the State Treasurer at the close of each month and at such other

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intervals as the Registrar deems advisable, and all such money shall be kept by the State Treasurer in a special and separate fund, to be known as the vital statistics fund, and the amounts so deposited in this fund shall be used for defraying expenses incurred in the enforcement and operation of this Act.

The State Registrar shall refund to the applicant any fee received for services which the Bureau cannot render. If the money has been deposited in the vital statistics fund, the Comptroller shall issue a warrant against the fund, upon presentation of a claim signed by the State Registrar, for the purpose of refunding the payment.

The State Registrar shall be entitled to a fee of Three Dollars (\$3.00) for filing a new birth certificate based on adoption, a fee of Three Dollars and Fifty Cents (\$3.50) for filing a new birth certificate based on legitimation or paternity determination, and a fee of Two Dollars (\$2.00) for filing an amendment to a birth certificate based on a court order of change of name, said fees to be paid by the applicants. As amended Acts 1961, 57th Leg., p. 163, ch. 84, § 1.

<sup>1</sup> Rules 34a-55a, Vernon's Ann.P.C. art. 781a.

Effective September 1, 1961.

#### CHAPTER FOUR A—SANITATION AND HEALTH PROTECTION

##### Art. 4477—1. Minimum standards of sanitation and health protection measures

###### Swimming pools and bath houses

Sec. 15. (a) All owners, managers, operators, and other attendants in charge of any public swimming pool shall maintain all such pools in a sanitary condition. The bacterial content of the water in any public swimming pool shall not be allowed to exceed the safe limits as prescribed by established standards of the State Department of Health. Residual chlorine from 0.2 to 0.5 parts per million units of water or any other method of disinfectant approved by the State Department of Health shall be maintained in every public swimming pool throughout the period of their use. As amended Acts 1961, 57th Leg., p. 1019, ch. 446, § 1.

Effective 90 days after May 29, 1961, date of adjournment. Injection wells for industrial and municipal waste, see art. 7621b.

##### Art. 4477—2. Mosquito Control Districts

###### Election on establishment

Section 1. In all counties of this State, the Commissioners Court may call an election within sixty (60) days after the effective date of this Act, and at subsequent elections when called by the County Judge upon his being petitioned by two hundred (200) qualified voters to call such election to determine if the qualified voters of such county desire the establishment of a Mosquito Control District to embrace all or a portion of the territory within said county, for the purpose of eradicating mosquitoes in said area. The form of the ballot shall be as follows:

FOR the establishment of a Mosquito Control District in \_\_\_\_\_ County.

AGAINST the establishment of a Mosquito Control District in \_\_\_\_\_ County. As amended Acts 1961, 57th Leg., p. 1105, ch. 498, § 1.

Emergency. Effective June 17, 1961.

Election on tax levy

Sec. 2. The Commissioners Court in each county governed by the provisions of this Act may call an election within sixty (60) days after the effective date of this Act and at subsequent elections when called by the County Judge upon his being petitioned by two hundred (200) qualified voters to call such election to determine if the qualified real property taxpaying voters of said county or portion of said county desire a levy of a tax not to exceed twenty-five cents (25¢) on each one hundred dollar tax valuation to finance the program provided in this Act. The form of the ballot shall be as follows:

FOR the levy of a tax of \_\_\_\_\_ cents on each one hundred dollar tax valuation to finance the Mosquito Control District within \_\_\_\_\_ County.

AGAINST the levy of a tax of \_\_\_\_\_ cents on each one hundred dollar tax valuation to finance the Mosquito Control District within \_\_\_\_\_ County. As amended Acts 1961, 57th Leg., p. 1105, ch. 498, § 2.

Emergency. Effective June 17, 1961.

Levy and collection of tax

Sec. 4. If the elections provided in Section 1 and Section 2 of this Act are in favor of the establishment of a Mosquito Control District and the levy of a tax not to exceed twenty-five cents (25¢) on each one hundred dollar tax valuation, the Commissioners Court is authorized to levy a tax not to exceed the amount fixed by the election; provided, however, that the Commissioners Court is authorized to lower the tax to any designated sum it may determine, should the approximate revenue be in excess of the needed revenue to carry out the provisions of this Act. The taxes so levied shall be collected by the County Tax Assessor and Collector and shall be deposited in a separate fund and be used for the purposes of carrying out the provisions of this Act and for no other purpose. As amended Acts 1961, 57th Leg., p. 1105, ch. 498, § 3.

Emergency. Effective June 17, 1961.

CHAPTER FIVE—COUNTY HOSPITAL

Art.  
4494q—4. Hospital districts in Ochiltree,  
Hansford and Castro Counties  
[New].  
4494q—5. Wichita County Hospital District  
[New].

Art.  
4494q—6. Hospital district in Brazoria  
County [New].  
4494q—7. Hopkins County Hospital Dis-  
trict [New].

Art. 4479. Board of managers

When the Commissioners Court shall have acquired site for such hospital and shall have awarded contracts for the necessary buildings and improvements thereon, it shall appoint six (6) resident property taxpaying citizens of the county who shall constitute a board of managers of said hospital. The term of office of each member of said board shall be two (2) years, except that in making the first appointments after this Act takes effect three (3) members shall be appointed for one (1) year and three (3) members for two (2) years so that thereafter three (3) members of said board will be appointed every two (2) years. In case of a tie vote of said board the deadlock may be voted off one way or the other by the

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county judge of the county. Appointments to fill vacancies occurring by death, resignation or other cause shall be made for the unexpired term. Failure of any manager to attend three (3) consecutive meetings of the board shall cause a vacancy in his office, unless said absence is excused by formal action of the board of managers. The managers may receive compensation for their services to consist of such insurance plan as may be deemed necessary by the Commissioners Court to provide hospitalization insurance. The managers shall be allowed their actual and necessary traveling and other expenses within this state to be audited and paid by the Commissioners Court in the same manner as other expenses of the hospital. Any manager after being cited may at any time for cause be removed from office by said court. As amended Acts 1961, 57th Leg., p. 456, ch. 227, § 1.

Emergency. Effective May 25, 1961.

#### Art. 4494q. Lamar County Hospital District

##### Creation of district; election; ballots

Section 1. (a) Lamar County may constitute itself a hospital district to take over the hospital system now operated by said County and thereafter administer the same by furnishing medical aid and hospital care to the indigent and needy persons residing in such county; provided, however, that such district shall not be created unless and until an election is duly held in said County, which said election may be initiated by the commissioners court upon its own motion or upon a petition of one hundred (100) resident qualified property taxpaying voters of said County to be held not less than thirty (30) days from the time such election is ordered by the commissioners court. At said election there shall be submitted to the qualified property taxpaying voters the proposition of whether or not a hospital district shall be created in the county, and a majority of such voters participating in the election voting in favor of the proposition shall be necessary.

(b) At the time the order for the holding of such election is entered by the commissioners court, the commissioners court shall determine the amount of tax needed for the operation and maintenance of such hospital system and the retirement of any outstanding bonded indebtedness which is to be assumed by such district not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) assessed valuation.

(c) At the election there shall be submitted to the qualified property taxpaying voters the proposition of whether or not a hospital district shall be created in the county; and a majority of the qualified property taxpaying voters participating in said election voting in favor of the proposition shall be necessary. The ballots shall have printed thereon:

"FOR the creation of a county-wide hospital district; providing for the levy of a tax not to exceed (the amount determined by order of the commissioners court in its order calling the election) on the One Hundred Dollars (\$100) valuation; and

"AGAINST the creation of a county-wide hospital district; providing for the levy of a tax not to exceed (the amount determined by order of the commissioners court in its order calling the election) on the One Hundred Dollars (\$100) valuation."

(d) The rate of tax may be changed at subsequent elections called in the same manner as provided in Section 1(a) hereof so long as obligations of the district are not impaired and so long as the maximum rate of

tax does not exceed the maximum limit of seventy-five cents (75¢) per One Hundred Dollars (\$100) valuation.

(e) If there are any outstanding County hospital bonds, there shall be added to such proposition the assumption of the bonds by such district. The district shall be known as Lamar County Hospital District. As amended Acts 1961, 57th Leg., p. 19, ch. 10, § 1.

Emergency. Effective Feb. 23, 1961.

#### Approval by voters; tax levy; bonds

Sec. 2. The District shall be deemed created in the event of an affirmative vote by the majority at said election. The commissioners court shall thereupon have the power to levy a tax in the amount authorized at elections held pursuant to Section 1 of this Act for the benefit of the District along with county taxes, using the same values and the same tax roll, of not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation on all taxable property within the district subject to district taxation for the purpose of creating a sinking fund on bonded indebtedness on present or future bonds, and for the maintenance and operation of the hospital system. The district shall have the power and authority to issue and sell bonds for the purchase, acquisition, construction, equipment, enlargement, operation and maintenance of the hospital system; provided, however, that a sufficient tax shall be levied to provide an interest and sinking fund to meet the maturities, which said tax shall be a part of the seventy-five cents (75¢) tax herein authorized. Any bonds issued by such district must, however, be authorized by a vote of the legally qualified taxpaying voters residing in such district as in the case of bonds issued by other political subdivisions of the State. As amended Acts 1961, 57th Leg., p. 19, ch. 10, § 2.

Emergency. Effective Feb. 23, 1961.

Lamar county hospital district, see Const. art. 9, § 6.

*Amendment of Const. art. 9, proposed by H.J.R.No.39, 56th Leg., 1959, was adopted at the general election Nov. 8, 1960.*

#### Art. 4494q—2. Hidalgo County Hospital District

*Amendment of Const. art. 9, permitting the Legislature to authorize by law the creation of a Hospital District coextensive with Hidalgo County, was adopted at the general election Nov. 8, 1960.*

#### Art. 4494q—3. Hospital districts in Comanche County

##### Purpose

Section 1. If the provisions of House Joint Resolution No. 39 of the Fifty-sixth Legislature, Regular Session, 1959, are adopted by the qualified electors at the November, 1960, General Election, the provisions of this Act shall thereafter be effective and there may be created a Hospital District to be coextensive with the limits of County Commissioners Precinct No. 4 of Comanche County, Texas, as such boundaries existed on the 1st day of January, 1959, with the power to issue bonds for the purpose of purchasing a site for and the construction and initial equipping of a hospital system, or for purchasing or acquiring, equipping, maintaining, and operating a hospital system, and further the power to levy a tax of not to exceed seventy-five cents (75¢) on One Hundred Dollar (\$100) property valuation therein for the purpose of paying the

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principal and interest on such bonds. As amended Acts 1961, 57th Leg., p. 114, ch. 61, § 1.

Emergency. Effective March 30, 1961.

*Amendment by Acts 1961, 57th Leg., p. 798, ch. 365, § 1, see § 1, post.*

#### Creation of district; boundaries; powers

Section 1. Pursuant to the provisions of this Act there may be created a Hospital District coextensive with the limits of County Commissioners Precinct No. 4 of Comanche County, Texas, as such boundaries existed on the 1st day of January, 1959, with the power to issue bonds for the purpose of purchasing a site for and the construction and initial equipping of a hospital system, or for purchasing, leasing, or acquiring, equipping, maintaining, and operating a hospital system, and further the power to levy a tax of not to exceed seventy-five cents (75¢) on one hundred dollar property valuation therein for the purpose of paying the principal and interest on such bonds and for maintaining and operating a hospital or hospital system. As amended Acts 1961, 57th Leg., p. 798, ch. 365, § 1.

*Amendment by Acts 1961, 57th Leg., p. 114, ch. 61, § 1, see § 1, ante.*

#### Creation of District

Sec. 2. (a) The Hospital District shall be created in the following manner after the adoption of the provisions of House Joint Resolution No. 39 of the Fifty-sixth Legislature, Regular Session, 1959, by the qualified electors at the General Election of November, 1960: Upon the motion or upon the petitions of one hundred (100) resident qualified property taxpaying voters within the boundaries of said precinct, the Commissioners Court of Comanche County shall call an election to be held within said precinct to approve the creation of such precinct. Said Commissioners Court shall order such election within ten (10) days of the receipt of said motion or petition and the election shall be held within said precinct within thirty (30) days after it is ordered.

(b) At the election there shall be submitted to the resident qualified property taxpaying voters within the boundaries of said precinct who have duly rendered their property for taxation upon the tax rolls of said precinct, the proposition of whether or not the Hospital District shall be created within said boundaries; and a majority of the resident qualified property taxpaying voters voting at said election who have duly rendered their property for taxation upon the rolls of said precinct voting in favor of the proposition shall be necessary to create said precinct.

The ballots shall have printed thereon:

FOR the creation of a Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation and for the assumption by such District of all outstanding bonds heretofore issued by any city or political subdivision situated within the district for hospital purposes.

AGAINST the creation of a Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation and for the assumption by such District of all outstanding bonds heretofore issued by any city or political subdivision situated within the district for hospital purposes.

Notice of such election stating the time of the election, and the polling place and proposition shall be posted in a newspaper in general circula-

tion in Comanche County, Texas, once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of election.

(c) The results of said election shall be filed in the County Clerk's office of Comanche County, Texas, within ten (10) days thereafter. And if the majority of the resident property taxpaying voters voting at said election who have duly rendered their property for taxation upon the tax rolls of said precinct vote for the creation of the District, then within ten (10) days of the filing of said results the Commissioners Court shall order said District created and shall at such time appoint a Board of Directors to consist of not less than five (5) members to manage and operate the business of said District, until the 1st Saturday of April of the year following the creation of said District. As amended Acts 1961, 57th Leg., p. 798, ch. 365, § 2.

Board of directors; president and secretary; management and control of district

Sec. 3. The Board of Directors of said Hospital District shall elect a president and secretary from the members to serve until said election; said Board of Directors shall have the full management and control of all business of said District, including but not limited to the power and authority to negotiate and contract with any person or body, public or private to purchase or lease land, to construct and equip a hospital system, and to operate and maintain the hospital, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes. As amended Acts 1961, 57th Leg., p. 798, ch. 365, § 3.

Election; bond issue and tax levy; notice; polling place; return; issuance of bonds; certification and registration

Sec. 4. (a) After creation of the District and the qualification of the Board of Directors, the Board may order an election to be held within said District at a time not less than twenty (20) days nor more than thirty (30) days from the date of such order at which time the qualified resident property taxpaying voters who have duly rendered their property for taxation upon the tax rolls of either said precinct shall vote to determine if bonds of the District shall be sold to purchase, construct, acquire, repair, or renovate improvements and initially equip same for a hospital system and/or to pay for the construction of the hospital system and/or the initial equipping of the hospital system and to authorize the levy of a tax of not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of property therein for the purpose of paying the principal and interest on such bonds and for maintaining and operating the system. At such election the proposition to be voted on shall set forth the purpose of the bonds, the amount of bonds to be issued and the voters shall vote for the issuance of bonds for said purpose and levy of taxes in payment thereof, or against the issuance of bonds for said purpose and levy of taxes in payment thereof.

(b) Notice of such election, stating the time of the election, the polling place, the amount of bonds as determined by the Board to be necessary to be issued; the proposition to be voted on and the estimated cost shall be published in a newspaper in general circulation in Comanche County, Texas, once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of election.



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(c) The Board of Directors shall name the polling place in the District and shall appoint two (2) judges, one of whom shall be presiding judge, and two (2) clerks for each voting place designated by them. The Board of Directors shall provide the necessary ballots for said election, which shall be printed.

(d) Immediately after the election the presiding judges shall make return of the result in the same manner as provided for in general elections for State and county officials. Such return shall be made to the Board of Directors who shall at a regular or special session canvass said vote, and if a majority of said votes favor the issuance of bonds and levy of taxes, the Board of Directors shall so declare and enter the results in their minutes.

(e) After declaring the result of said election, the Board of Directors shall make and enter an order in their minutes directing the issuance of bonds for such District sufficient in amount to pay for such proposed project with all necessary actual and incidental expenses connected therewith not to exceed the amount specified in said order and voted at the election. All bonds issued by the District shall be signed and executed by the President of the Board and the Secretary.

(f) Before such bonds are offered for sale, there shall be forwarded to the Attorney General a certified copy of all proceedings had in the organization of the District, and with reference to issuance of such bonds in connection with the bonds themselves, and such other information respecting same as he may require. The Attorney General shall carefully examine said bonds in connection with the record and Constitution and laws of the State governing the issuance of such bonds; and if such examination shows that such bonds are issued in conformity thereto, and that they are valid and binding obligations upon said District, he shall so officially certify.

(g) When said bonds are so approved, they shall be registered by the Comptroller in a book kept for that purpose and the certificate of the Attorney General as to their validity shall be preserved of record; whereupon such bonds shall be held prima facie valid in every action, suit or proceeding in which their validity may be brought into question. In every suit to enforce collection of such bonds and interest thereon, the only available defense against the validity of such bonds shall be forgery or fraud. As amended Acts 1961, 57th Leg., p. 798, ch. 365, § 4.

#### Bonds

Sec. 5. (d) Said Hospital District when it has issued bonds, may, by consent of the holders thereof, refund any bonds heretofore issued by issuing new coupon bonds for that purpose. Such refunding bonds shall not bear a greater rate of interest than the bonds in lieu of which they are issued. Interest shall be evidenced by coupons attached to such bonds, and may be payable annually or semi-annually, within the discretion of its Board of Directors; and such refunding bonds shall be payable serially, or otherwise, not exceeding forty (40) years from the date thereof, and shall be issued in denomination of One Hundred Dollars (\$100), or some multiple thereof; and a sufficient tax levy to meet the payment of the principal and interest of said refunding bonds shall be made before the delivery thereof, providing the refunding of any bonds shall not affect any taxes already due.

The refunding bonds hereby authorized shall be issued in the manner provided by law for the issuance of refunding bonds by counties and

cities. Any sum to the credit of any sinking fund account on hand shall first be deducted in ascertaining the amount of refunding bonds to be issued, and such money shall in every case be applied to the payment of the outstanding bonds. No refunding bonds shall be issued and delivered until approved by the Attorney General, and registered by the State Comptroller; provided, however, that the Comptroller shall not register such refunding bonds until the old bonds in lieu of which such refunding bonds are issued are presented to him for cancellation; and after the registration of the new bonds the Comptroller shall cancel the old bonds and interest coupons and deliver such new bonds to the proper party or parties; provided, further, that the old bonds may be presented for cancellation, in installments, and a like amount of the new bonds registered and delivered as is herein provided. As amended Acts 1961, 57th Leg., p. 798, ch. 365, § 5.

Emergency. Effective June 16, 1961.

*Amendment of Const. art. 9, proposed by H.J.R.No.39, 56th Leg., 1959, was adopted at the general election Nov. 8, 1960.*

#### Art. 4494q—4. Hospital districts in Ochiltree, Hansford and Castro Counties

##### Purpose

Section 1. Upon the adoption of Article IX, Section 9, as a part of the Constitution of the State of Texas, as proposed by Senate Joint Resolution No. 22 of the 57th Legislature, Regular Session, 1961, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of three hospital districts within the State of Texas, each district to have boundaries coextensive with the boundaries of one of the following counties, to-wit: Ochiltree, Hansford, and Castro; each of which districts shall have the powers and responsibilities provided by the aforesaid Constitutional provision.

##### Creation of districts; elections; ballots

Sec. 2. Each of the counties to which this Act applies may be constituted a hospital district as hereinafter set out, and may take over the hospital or hospital system, either owned separately by a county or jointly with a city within such county, or may provide for the establishment of a hospital or hospital system to furnish medical and hospital care to needy persons residing in said hospital district; provided, however, that such hospital district shall not be created unless and until an election is duly held in such county for such purpose, which said election may be initiated by the Commissioners Court of each of such counties upon its own motion or upon a petition of one hundred (100) resident qualified property tax-paying electors, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At said election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not a hospital district shall be created in the county; and a majority of the qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary. The ballots shall have printed thereon:

“FOR the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation”; and

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"AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation."

If such county or city located therein, either or both of them, has any outstanding bonds theretofore issued for hospital purposes (which by the provisions of Section 7 of this Act are required to be assumed by the hospital district), then the ballots for such election shall, instead of the foregoing, have printed thereon:

"FOR the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by \_\_\_\_\_ County, and by any city in said county for hospital purposes"; and

"AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by \_\_\_\_\_ County, and by any city in said county for hospital purposes."

**Board of directors; appointment; president and secretary;  
regular election of directors.**

Sec. 3. Within ten (10) days after such election is held the Commissioners Court in such county shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, the court shall so find and declare the hospital district established and created and appoint five (5) persons as directors of the hospital district to serve until the first Saturday in April following the creation and establishment of the district at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) directors shall serve for one (1) year. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said hospital district unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000.00) payable to said district conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any three (3) members of the board of directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the district. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board of directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the district, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than one hundred (100) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the district. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

#### Management and control of districts

Sec. 4. The management and control of each hospital district created pursuant to the provisions of this Act is hereby vested in the board of directors of the district who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

#### Tax levy; assessment and collection; fees; depository

Sec. 5. Upon the creation of such hospital district, the board of directors shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of all taxable property within the hospital district, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1 of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the county in which the district is located. The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one (1%) per cent of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000.00) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

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The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said hospital district is established, for the purpose of securing funds to initiate the operation of the hospital district, and to pay assumed bonds.

#### Bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such hospital district, and in the name and upon the faith and credit of such hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes: provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures provided said tax together with any other taxes levied for said district shall not exceed Seventy-five Cents (75¢) in any one year. Such bonds shall be executed in the name of the hospital district and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such county. Upon the approval of such bonds by the Attorney General of Texas the same shall be incontestable for any cause. No bonds shall be issued by such hospital district (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in such hospital district, voting at an election called and held for such purpose.

Such election may be called by the board of directors of its own motion, shall specify the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six (6%) per cent per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The costs of such election shall be paid by the hospital district.

In the manner hereinabove provided, the bonds of such hospital district may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by such hospital district and any bonds therefore issued by such hospital district; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed, upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the

bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the hospital district of the refunding bonds.

If the county in which the district is located or any city within such county has voted bonds to provide hospital facilities; but such bonds have not been sold and delivered at the date of the creation of the hospital district, the authority for such bonds shall be canceled and they shall not be sold.

**Transfer of title to lands, buildings or equipment; outstanding bonded indebtedness**

Sec. 7. Any lands, buildings or equipment that may be jointly or separately owned by the county and city within the boundaries of the district and by which medical services or hospital care, including geriatric care, are furnished to needy persons of the city and county, shall become the property of the hospital district; and title thereto shall vest in the hospital; and any funds of such city and county, or either, which are the proceeds of any bonds assumed by the hospital district, as hereby provided, shall become the funds of the hospital district; and title thereto shall vest in the hospital district; and there shall vest in the hospital district and become the funds of the hospital district the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by such city or the county, or either of them, for the support and maintenance of the hospital facilities for the year within which the hospital district comes into existence, thereby providing such hospital district with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by such city or county, or either of them, for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said district but outstanding at the time of the creation of the district, shall be assumed and discharged by the hospital district without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the board of managers of such system until appointment and organization of the board of directors of the hospital district, at which time the board of managers of the present hospital system or systems shall turn over all records, property and affairs of said hospital system to the board of directors of the hospital district and shall cease to exist.

Any outstanding bonded indebtedness incurred by such city or county, either or both of them, in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by either of them for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the hospital district and become the obligation of the hospital district; and the city or county, either or both of them, that issued such bonds, shall be by the hospital district relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the city or the county, as the case may be, in the event of default in the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court and the city, where a hospital or hospital system is jointly operated, or the Commissioners Court, where the county owns the hospital or hospital system, as the case may be, as soon as the

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hospital district is created and authorized at the election hereinabove provided, and there have been appointed and qualified the board of hospital managers as hereinbefore provided, shall execute and deliver to the hospital district, to-wit: to its said board of directors, an instrument in writing conveying to said hospital district the hospital property, including lands, buildings and equipment; and shall transfer to said hospital district the funds hereinabove provided to become vested in the hospital district, upon being furnished the certificate of the chairman of the board to the fact that a depository for the district's funds has been selected and has qualified; which funds shall, in the hands of the hospital district and of its board of directors be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the county or the city transferring such funds could lawfully have used the same had they remained the property and funds of such county or city.

**Purchases and expenditures; books and records; rules and regulations**

Sec. 8. The board of directors of such district shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such district; and may employ a general manager, attorney, bookkeeper and architect.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

**Fiscal year; audit; proposed budget**

Sec. 9. The fiscal year of the hospital districts authorized to be established by the provisions hereof shall commence on October 1 of each year and end on the 30th day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such

fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

#### **Eminent domain**

Sec. 10. A hospital district organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by paragraph No. 2 in Article 3268, V.C.A., 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

#### **Depositories**

Sec. 11. Within thirty (30) days after appointment and qualification of the board of directors of a hospital district, the said directors shall by resolution designate a bank or banks within the county in which the district is located as the district's depository or treasurer and all funds of the district shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years and until a successor has been named.

#### **Inspection**

Sec. 12. All hospital districts established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital district.

#### **Medical and hospital care assumed by district; delinquent taxes owed to cities and counties**

Sec. 13. Except as herein provided, no county that has been constituted a hospital district, and no city therein, shall thereafter levy any tax for hospital purposes; and such hospital district shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

That portion of delinquent taxes owed cities and counties or levied for present city and county hospital systems under Acts of the 48th Legislature, 1943, Chapter 383, page 691, shall continue to be paid to the hospital



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district by the city and county as collected, and applied by the hospital district to the purposes for which such taxes originally were levied.

#### Patients; inquiry as to ability to pay

Sec. 14. Whenever a patient has been admitted to the facilities of the hospital district from the county in which the district is situated, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute.

#### Additional tax; contracts for care of indigents

Sec. 15. The county in which the hospital district is located and which has the same boundaries of such hospital district may levy and collect a tax of Ten Cents (10¢) on the One Hundred Dollars (\$100.00) valuation of property in such county to aid in the operation of the district or the payment of the debts of such district, such tax to be in addition to other taxes permitted by the Constitution of Texas to be levied, all as provided in the aforesaid Constitutional provision authorizing the creation of hospital districts for Ochiltree, Hansford, and Castro Counties; and such county and hospital district may contract whereby the district will assume all obligations of the county in respect to the care of indigents within such county in exchange for such funds of the county. No such contract shall extend for a period in excess of five (5) years, but may be renewed for a similar term or terms upon conditions satisfactory to the contracting parties, and during the term that the hospital district assumes all responsibilities, obligations and liabilities of the county, no tax may be levied by the county other than as specified herein.

#### Donations, gifts and endowments

Sec. 16. Said board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of hospital district.

#### Bonds as legal and authorized investments

Sec. 17. All bonds issued by or assumed by the districts authorized to be established and created under the provisions of this Act shall be and

are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

**Political subdivisions; suits**

Sec. 18. All hospital districts created under the provisions of this Act shall be and are declared to be political subdivisions of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such district.

**Conformity with federal and state constitutions; partial invalidity**

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the districts or the validity of any other provision of this Act, and the Legislature here declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1961, 57th Leg., p. 193, ch. 103.

**Conditional Enactment**

*Effective upon adoption of constitutional amendment, Const. art. IX, sec. 9, proposed by Senate Joint Resolution No. 22, 57th Legislature, 1961, authorizing the creation, establishment, maintenance and operation of three hospital districts within the State of Texas.*

**Art. 4494q—5. Wichita County Hospital District**

**Citation**

Section 1. This Act shall be known and may be cited as the "Wichita County Hospital District Law."

**Purpose**

Sec. 2. The purpose of this Act is to provide a more efficient method for administering the Wichita General Hospital, and to provide a more efficient method for caring for the indigent patients of Wichita County, and this Act is enacted pursuant to the authority granted by Article IX, Section 5 of the Constitution of the State of Texas.

**Creation of District**

Sec. 3. Wichita County is hereby given authority to create a hospital district to be known as Wichita County Hospital District with boundaries coextensive with the boundaries of Wichita County, and said district, if established, shall be for the purpose of operating the hospital facilities now known as the Wichita General Hospital, and such additional facilities as may be provided in the future, and to set up a procedure to furnish medical and hospital care to indigent persons residing in said hospital

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district, provided that the district shall not be established unless and until an election is duly held in Wichita County for such purpose upon the following conditions:

The county judge of Wichita County shall order an election held not less than thirty (30) days nor more than ninety (90) days after a petition signed by a minimum of one thousand (1,000) resident qualified taxpaying voters of Wichita County is presented to the said county judge requesting such election. At said election there shall be submitted to the qualified property taxpaying voters of the district the proposition for the creation of the hospital district, and a majority of the qualified property taxpaying voters participating in said election voting in favor of the proposition shall be necessary. The ballots at such election shall have printed thereon the following:

“FOR the creation of a Wichita County Hospital District and authorizing the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property in the district and for the assumption by the hospital district of outstanding bonds theretofore issued by the County of Wichita and the City of Wichita Falls, Texas, for hospital purposes.

“AGAINST the creation of a Wichita County Hospital District and authorizing the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property in the district and for the assumption by the hospital district of outstanding bonds theretofore issued by the County of Wichita and the City of Wichita Falls, Texas, for hospital purposes.”

The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, provided said maximum rate shall not exceed seventy-five cents (75¢) per One Hundred Dollar (\$100) valuation.

#### Management of the District

Sec. 4. In the event such election results favorably to the creation of the hospital district, it shall be governed by a Board of Directors of the Wichita County Hospital District. The board shall consist of seven (7) members who shall serve without pay. Each director must be a resident of the district and must own land subject to taxation within the district and must be at the time of such election or appointment more than twenty-one (21) years of age. Said board shall be selected in the following manner:

(a) In the first even-numbered calendar year after the creation of the district, there shall be elected one (1) director from each county commissioners precinct in Wichita County, which places shall carry the same number as the precinct, and three (3) directors from the district at large, which positions shall be designated as Place 5, Place 6, and Place 7. The three (3) directors elected at large shall serve six-year terms; the first directors elected from Places 3 and 4 shall serve four-year terms; and the first directors elected from Places 1 and 2 shall serve two-year terms. Only qualified electors residing in each county commissioners precinct shall be eligible to vote for the director to be elected from that precinct. All qualified electors residing in the county shall be eligible to vote for the three (3) directors to be elected from Place 4, Place 5, and Place 6. After the first election, all terms of office of the directors of said hospital district shall be for six (6) years.

(b) Members of the existing Board of Directors of the Wichita General Hospital shall serve as interim directors until the first election shall be

had and shall establish the procedure for filing for said board, and said board shall also set the date of the first election. After said first election, the elected Board of Directors shall have authority to set the date and procedures of subsequent elections.

(c) All vacancies in the Board of Directors of said district shall be filled through appointment by the remaining board members for the unexpired term in the position vacated.

(d) At the first regular meeting following each election, the Board of Directors shall select one (1) of its members as president and one (1) of its members as secretary of said district. The Board of Directors shall have the power to establish rules of procedure for its meetings.

#### Assumption of City and County Assets and Indebtedness

Sec. 5. All lands, buildings and equipment that at the time of creation of the district were owned jointly by the City of Wichita Falls and the County of Wichita, and which were acquired for the purpose of providing hospital service or care for indigent patients of Wichita County shall become the property of the Wichita County Hospital District, and the Board of Aldermen of the City of Wichita Falls shall provide by ordinance and the Commissioners Court of Wichita County shall provide by order that all property so owned shall be conveyed to the Wichita County Hospital District in consideration of the hospital district assuming all debts and obligations arising from the acquisition, construction and operation of the Wichita General Hospital or other existing hospital facilities. The hospital district, through its Board of Directors, shall by resolution accept said properties and shall assume all of the liabilities and obligations, including bonds and warrants, of such county and city.

#### Issuance of Bonds; Levy of Tax

Sec. 6. The Board of Directors of the hospital district shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such hospital district for the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same for the hospital or hospital system, as such system may be defined by the board, and for any or all of such purposes; and at the time of issuance of any such bonds a tax shall be levied by the board sufficient to create an interest and sinking fund to pay the interest on and principal of such bonds as same mature, provided said tax, together with any other taxes levied for said district, shall not exceed seventy-five cents (75¢) on each One Hundred Dollar (\$100) valuation of taxable property in any one (1) year. Such bonds shall be executed in the name of the hospital district and in its behalf by the president of the board and attested by the secretary and shall be subject to the same requirements in the matter of approval by the Attorney General of the State of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bonds shall be issued by such hospital district, except refunding bonds, until authorized by a majority vote of the legally qualified property taxpaying voters residing in such hospital district who own taxable property situated therein which has been duly rendered for taxation, voting at an election called and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended. Such election shall be called by the Board of Directors except as otherwise provided herein and shall

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be conducted in accordance with the General Laws of Texas pertaining to such elections. The hospital district shall make provision for the payment of all costs of such elections.

In the manner hereinabove provided, the bonds of such district may, without the necessity of an election, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed or issued by such hospital district. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and unpaid interest matured thereon; provided the interest cost on such refunding bonds, computed in accordance with recognized standard bond interest costs tables, shall not exceed the interest cost so computed upon the bonds to be refunded. In the foregoing computations, any premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account and added to the net interest cost to the hospital district of the refunding bonds.

If the County of Wichita and/or the City of Wichita Falls has voted bonds to provide hospital facilities, but such bonds have not been sold at the date of the creation of the hospital district, the authority for such bonds shall be canceled, and they shall not be sold.

#### Powers of the Board of Directors

Sec. 7. The Board of Directors shall manage, control and administer the hospital or hospital system of the hospital district. The district, through its Board of Directors, shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of said District.

The Board of Directors shall appoint a qualified person to be known as the administrator of the hospital district and may in its discretion appoint an assistant to the administrator. The administrator and assistant administrator, if any, shall serve at the will of the board and shall receive such compensation as may be fixed by the board. The administrator and assistant administrator shall, before assuming their duties, execute a bond payable to the hospital district in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000) conditioned that they shall faithfully perform the duties required of them and containing such other conditions as the board may require. The administrator shall supervise all the work and activities of the district and shall have general direction of the affairs of the district, subject to such limitations as may be prescribed by the board.

The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the district or may provide that the administrator shall have the authority to employ any of such personnel. The Board of Directors shall be authorized to contract with any county or incorporated municipality, other than those located within Wichita County, for the care and treatment of the sick, diseased or injured persons of such county or city, and shall have the authority to contract with the State of Texas and agencies of the Federal Government for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required

to establish or continue a retirement program for the benefit of the district's employees.

#### **Purchases and Expenditures**

Sec. 8. The Board of Directors shall have the power to prescribe the method and manner of making purchases and expenditures; however, no contract for an amount exceeding Two Thousand Dollars (\$2,000) shall be made without first receiving competitive bids for the same in the manner required and provided for by Article 2368a of Vernon's Annotated Civil Statutes of Texas, known as the "Bond and Warrant Law."

#### **Fiscal Affairs**

Sec. 9. The Board of Directors shall establish a fiscal year for the district, and as soon as practicable after the close of each fiscal year the administrator shall prepare for the board a full sworn statement of all moneys and choses in action received by said district and a full account of the disbursements of the same. In addition, the administrator shall prepare an annual budget for approval by the Board of Directors of said district.

#### **Eminent Domain**

Sec. 10. The Wichita County Hospital District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real and personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by paragraph 2 of Article 3268, Revised Civil Statutes of Texas, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any court of civil appeals or to the Supreme Court.

#### **Selection of Depository**

Sec. 11. Within thirty (30) days after the appointment of the Board of Directors, the board shall select a depository for such district in the manner provided by law for the selection of county depositories, and such depository shall be the depository of such district for a period of two (2) years thereafter and until its successor is selected and qualified.

#### **Inspection by Representatives of State Agencies**

Sec. 12. The Wichita County Hospital District shall be subject to inspection by any duly authorized representative of the Texas State Department of Health or the Texas Department of Public Welfare, and the Board of Directors shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the hospital district.

**Duties of County Attorney**

Sec. 13. The county attorney of Wichita County shall represent said district; however, the Board of Directors is authorized to employ additional counsel as needed.

**Limiting Powers of the City of Wichita Falls and Wichita County**

Sec. 14. After creation of the Wichita County Hospital District, neither the City of Wichita Falls nor the County of Wichita shall levy any tax for hospital purposes or for the medical treatment of indigent persons, and the said Wichita County Hospital District shall be deemed to have assumed full responsibility for the operation of the Wichita General Hospital and the furnishing of medical and hospital care for indigent persons residing in the said district from the date of the formation of said hospital district.

That portion of delinquent taxes owed the City of Wichita Falls and Wichita County on levies for present city and county hospital systems under Chapter 383, Acts of the Forty-eighth Legislature, 1943, shall be paid as collected to the hospital district by the city and county and applied by the hospital district to the purpose for which such taxes originally were levied.

**Patients; Inquiry as to Ability to Pay; Liability of Relatives**

Sec. 15. Whenever a patient who resides within the district has been admitted to the facilities of the hospital district, the administrator shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The administrator shall have power and authority to collect such sum from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the administrator finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district as to the amount of inability to pay. Should there be a dispute as to the ability to pay or doubt in the mind of the administrator, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper.

**Donations, Gifts and Endowments**

Sec. 16. The Board of Directors of the hospital district is authorized, on behalf of said district, to accept donations, gifts, and endowments for the hospital district, to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and objects of hospital district. Acts 1961, 57th Leg., p. 731, ch. 343.

Effective 90 days after May 29, 1961 date of adjournment.

1 So in enrolled bill.

**Art. 4494q—6. Hospital district in Brazoria County****Establishment authorized; property excluded**

Section 1. The Commissioners Court of Brazoria County may establish a hospital district comprised of a district coterminous with the Sweeny Independent School District and another hospital district to be coterminous with the Damon Independent School District and the West Columbia-Brazoria Independent School District except the following described property which formerly comprised the "old Brazoria School District" prior to February 28, 1959, to wit:

"Beginning on the Brazos River, at the mouth of Buffalo Camp Bayou; Thence up Buffalo Camp Bayou to a point due East of the Southeast corner of the J. P. Coles Survey; Thence West to said Southeast corner of said J. P. Coles Survey, and continuing West along the South line of said Survey to where said line intersects Middle Bayou; Thence up Middle Bayou to its intersection with the North line of the Asa Mitchell  $\frac{1}{2}$  League; Thence West along said North line of said Mitchell  $\frac{1}{2}$  League to the center of the bed of the Brazos River; Thence downstream along the center of the bed of the Brazos River with its meanders to a point in the center of said river from which line drawn due South will reach a point on the North line of the James Cummings Survey, one mile west from the northeast corner of said Cummings Survey; Thence due South to such point on the North line of said Cummings Survey; Thence west along the north line of said Cummings Survey to the East bank of the San Bernard River; Thence down the East Bank of the San Bernard River to a point directly East of the Southeast corner of the Jno. Cummings Survey; Thence West to the center of the bed of the San Bernard River; Thence downstream along the center of the bed of the San Bernard River with its meanders to a point 1000 feet in a Southeasterly direction from the Churchill bridge over the San Bernard River; Thence in a Northeasterly direction to the Northwest corner of the Palmer tract of land located near the Clemens State Farm Sugar Refinery; Thence North to a point on the North boundary line of the John McNeel League; Thence East along said line to the Northeast corner of said McNeel League; Thence North along the East line of the Wm. Cummings Survey to its Northeast corner; Thence due North across the S. F. Austin  $7\frac{1}{3}$  Leagues to the center of the bed of the Brazos River; Thence downstream along the center of the bed of the Brazos River with its meanders to a point opposite the mouth of Buffalo Camp Bayou; Thence East to the East Bank of the Brazos River and also the center of the mouth of Buffalo Camp Bayou, the place of beginning.

"The following provisions shall apply to either of the districts severally, or to the district established by the merger of said districts provided by Section 32 of this Act."

**Petition for election; tax levy, and bonds**

Sec. 2. When it is proposed to establish a public hospital district as above provided, a petition praying for an election therefor, signed by not less than five per cent (5%) of the qualified taxpaying voters of the proposed territory, shall be presented to the Commissioners Court of the County in which the proposed district is situated, stating the boundaries of the proposed district, the public necessity therefor, and designating a name for such district. Said petition may also incorporate therein a request for the Commissioners Court, in the event an election is ordered for the creation of such district, to submit at the same election the ques-



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tion of levying a tax for the construction, equipment, maintenance or purchase of hospital buildings and grounds for such district, in the event same is created, or the bonds to be issued for the construction or the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as are authorized for such districts.

#### Cash deposit with petition

Sec. 3. Said petition shall be accompanied by Two Hundred Dollars (\$200) in cash, which shall be deposited with the clerk of said court, and by him held until after the results of the election for the creation of the district and issuance of bonds is officially made known. If said election is in favor of the establishment of said district, then the clerk shall return said deposit to the petitioners, their agent or attorney. If said election is against the establishment of such district, then the clerk shall pay out of said deposit upon vouchers approved and signed by the County Judge, all costs and expenses pertaining to said proposed district up to and including said election, and the balance shall be returned to the petitioners, their agent or attorney.

#### Petition set down for hearing; notice of hearing

Sec. 4. At the same session when said petition is presented, the court shall set said petition down for hearing at some regular or special session called for the purpose, not less than thirty (30) days nor more than sixty (60) days from the presentation of said petition, and shall order the clerk to give notice of the date and place of said hearing by posting a copy of said petition and other order of the court thereon for twenty (20) days prior to the election in five (5) public places in said county, one (1) at the courthouse door, and four (4) within the limits of the district.

#### Hearing; findings and determination

Sec. 5. If at the hearing, the court finds that such petition has been signed by the requisite number of qualified taxpaying voters, correctly describes the boundaries of the proposed district, and otherwise conforms to the provisions of this Act, then the court shall so find and shall enter an order for an election to be held in the proposed district within a time not less than twenty (20) days and not more than thirty (30) days after such order is issued, to determine whether or not such public hospital district shall be created and formed; and in the event the petition for the creation of such public hospital district was accompanied by a request to submit the question of levying of a tax for the construction, equipment, maintenance or purchase of hospital buildings and grounds for such district, in the event same is created or bonds to be issued for the construction, equipment of hospital buildings, or the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as are authorized for such districts, then such order shall also submit such question of levying a tax and issuing bonds according to the terms of said petition. Such order shall contain a description of the metes and bounds of such public hospital district to be formed, and shall fix the date of such election. A majority vote of the qualified taxpaying voters in said district voting in said election shall determine the question or questions submitted in said order.

Canvass of election returns

Sec. 6. Said Commissioners Court shall within ten (10) days after holding such election make a canvass of the returns and declare the results of the election. The court shall then enter an order in the minutes as to the results.

District as body corporate; district hospital trustees; administration and control

Sec. 7. Such public hospital district or districts shall be a body corporate and operate in a governmental capacity and shall be governed, administered and controlled by and under the direction of a Board of five (5) Public District Hospital Trustees elected at large from the public hospital district by the qualified voters of said district, it being provided that whenever an election is ordered for the creation of such district at the same election at which shall be determined the creation of such district, there shall also be submitted and voted upon the question of who shall be the Public District Hospital Trustees, in the event such district is created. The five (5) candidates for Public District Hospital Trustees receiving the highest number of votes at such election shall be declared the Trustees of such public district hospital. Such Trustees so elected, when duly qualified hereunder, shall be the legal and rightful Public Hospital District Trustees for such district within the full meaning and purpose of this law. Such Trustees shall hold office until the next regular election for State and county officers and shall then and thereafter be elected every two (2) years at each general election. Any candidate desiring to be voted upon as such first Trustee shall present a petition to the Commissioners Court not later than three (3) days before the order authorizing the election is issued by the court, and shall be accompanied by a petition of not less than one hundred (100) of the qualified voters in such district, requesting that his name be placed on the ticket as a candidate for such Trustee. Said Board of Trustees shall adopt such rules, regulations, and bylaws as they may deem proper, and they shall have exclusive power to manage and govern said public district hospital and as such they shall constitute a body corporate by the name of "West Columbia-Brazoria, and Damon Hospital District" and also the "Sweeny Hospital District," or if merged according to the provisions of Section 32, the "West Columbia-Brazoria, Damon, and Sweeny Hospital District" and in that name or names may acquire and hold real and personal property, sue and be sued, and may receive bequests and donations or other moneys or funds coming legally into their hands and may perform other acts for the promotion of health in said district.

Oath of trustees

Sec. 8. Before entering upon his duties, each Trustee shall take and subscribe before the County Judge an oath faithfully to discharge the duties of his office without favor or partiality, and to render a true account of his activities to the court whenever requested to do so. Such oath shall be filed by the clerk of the court and preserved as a part of the district records.

Bond of trustees

Sec. 9. Each Trustee shall give a good and sufficient bond for Five Thousand Dollars (\$5,000) payable to the County Judge for the use and benefit of the district, conditioned upon the faithful performance of his duties.

**Compensation of trustees; expenses of trustees;  
organization; quorum; seal**

Sec. 10. The Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. The Trustees shall organize by electing one (1) of their number chairman and one (1) secretary and one (1) treasurer, and such other officers as they may deem fit. Three (3) Trustees shall constitute a quorum which shall be sufficient in all matters pertaining to the business of said district. All proceedings of the Board of Trustees shall be by motion or resolution recorded in a book or books kept for such purpose, which shall be public records. The Board of Trustees shall adopt an official seal.

**Superintendent and other officers**

Sec. 11. The Board of Trustees of such public hospital district shall appoint a superintendent and such other officers as they deem necessary and fix the salary or other compensation to be received by each of them. All such appointments shall be for an indefinite time and may be removable at the will of the Board of Trustees. The superintendent shall be the chief administrative officer of the public district hospital and shall have control of the public district hospital and shall have control of administrative functions of said hospital. He shall be responsible to the Board of Trustees for the efficient administration of all affairs of the hospital. In case of the absence or temporary disability of the superintendent a competent person shall be appointed by the Board of Trustees. The superintendent shall be entitled to attend all meetings of the Board of Trustees and its committees and to take part in the discussion of any matters pertaining to the duties of his department but shall have no vote. Such public hospital district superintendent shall have power, and it shall be his duty:

1. To carry out the orders of the Board of Trustees, and to see that all the laws of the State pertaining to matters within the functions of his department are duly enforced;
2. To keep the Board of Trustees fully advised as to the financial condition and needs of the district. To prepare each year, an estimate for the ensuing fiscal year of the probable expenses of his department, and to recommend to the Board of Trustees what development work should be undertaken, and what extensions and additions, if any, should be made, during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions. To certify to the Board of Trustees all the bills, allowances and payrolls, including claims due contractors of public works. To recommend to the Board of Trustees salaries of the employees of his office and a scale of salaries or wages to be paid for the different classes of service required by the district.

**Additional bond issue; referendum**

Sec. 12. If the proceeds of the original bond issue shall be insufficient to complete the construction, equipment, maintenance or purchase of hospital buildings and grounds for such district, or if the Trustees determine to provide for additional construction, equipment, maintenance or purchase of hospital buildings and grounds, they shall certify to said court the necessity for an additional bond issue, stating the amount required, the purpose of same, the rate of interest of said bonds and the time for which they are to run. Said court shall thereupon order an

election on the issuance of said bonds to be held within such district at the earliest possible legal time. The outstanding bonds and the additional bonds so ordered shall not exceed in amount one-twentieth ( $\frac{1}{20}$ ) of the assessed value of the real property in such district, as shown by the latest annual assessment thereof made for State and county taxation.

**Changes in district hospital; additions; betterments;  
extensions; equipment; notice**

Sec. 13. After the issuance of bonds is authorized the Trustees may make changes in said proposed public district hospital, additions, or betterments thereto, extensions thereof, or equipment therefor, which will be of advantage to the public district hospital, which changes will not increase the cost of such proposed project beyond the amount of bonds authorized. Such changes may be made by the Trustees by entering on the minutes a notation of such changes. Notice of such change or changes shall be given by publication of such notation with the book and page number of the minutes for two (2) successive weeks in some newspaper of general circulation, published in the English language, within the county in which such district is situated.

**Bond record book; open to inspection; recording fee**

Sec. 14. Before issuing any bonds hereunder, the court shall provide a well-bound book, in which a record shall be kept by the County Clerk of all bonds issued, with their numbers, amount, rate of interest and date of issue, when due, where payable and amount received for the same, and the annual rate of assessment made each year to pay the interest on said bonds and provide a sinking fund for their payment, and upon the payment of any bond an entry thereof shall be made in said book. Said book shall at all times be open to inspection of all parties interested in said district either as taxpayers or bondholders, The County Clerk shall receive for his service in recording all bonds and other instruments of the district the same fees as provided by law for other like records.

**Bonds, requisites and terms**

Sec. 15. All bonds issued hereunder shall be issued in the name of the district. Such bonds shall be issued in denominations of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) each, and shall bear interest at not exceeding six per cent (6%) per annum, payable annually or semiannually. Such bonds shall by their terms provide the time, place, manner and conditions of their payment, and the rate of interest thereon, as may be determined by the Trustees. No bonds shall be made payable more than thirty (30) years after the date thereof.

**Certified copy of proceedings and copy of proposed bonds to Attorney  
General; certification of validity of bonds**

Sec. 16. Before any bonds are offered for sale, the district shall forward to the Attorney General a copy of the bonds to be issued, a certified copy of the proceedings relating thereto as to levying the tax to pay the interest and provide a sinking fund, and a statement of the total bonded indebtedness of such district as such, including the series of bonds proposed, and the assessed value of property for the purpose of taxation as shown by the latest official assessment of the county, with such other information as the Attorney General may require. Such officer shall carefully examine said bonds, and if he shall find that they are issued in con-

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formity with the Constitution and laws, and that they are valid and binding obligations upon such district, he shall so officially certify.

**Registration of bonds; bonds prima facie valid; forgery or fraud only defense**

Sec. 17. When said bonds have been so approved, they shall be registered by the Comptroller in a book to be kept for that purpose, and the certificate of their approval shall be preserved of record for use in the event of litigation. Thereafter, said bonds shall be held prima facie valid and binding obligations in every action, suit or proceeding in which their validity is brought in question. In every suit to enforce the collection of said bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence as prima facie proof of the validity of such bonds, together with the coupons attached thereto. The only defense that can be offered against the validity of such bonds shall be forgery or fraud.

**Sale of bonds; district funds, disbursement and deposit.**

Sec. 18. When the bonds have been registered, the Trustees shall advertise and sell such bonds on the best terms and for the best price possible, not less than the par value and accrued interest. All money received from such sale shall be turned over as received to the District Depository. All funds in the district shall be disbursed by the treasurer only by warrants drawn and signed by himself and the Chairman of the Board of Trustees, or such other officer of the district as may be selected and designated by the Board of Trustees. The Treasurer shall maintain in the name of the public hospital district such funds as may be created by the Board of Trustees, and into which shall be placed such moneys as the Board of Trustees may by its resolution direct. All such public hospital district funds shall be deposited with the district depositories under the same resolutions, contracts and securities as are provided by statute for county depositories, and all interest collected on such hospital funds shall belong to such public hospital district.

**Tax levy to pay bonds; sinking fund**

Sec. 19. When bonds have been voted, the court shall annually levy and cause to be assessed and collected taxes upon all property within the district, whether real, personal, or otherwise, and sufficient in amount to pay the interest on such bonds as it falls due, and to redeem bonds at maturity. Such taxes when so collected shall be placed in the interest and sinking fund.

**Annual report of trustees**

Sec. 20. The Trustees shall annually, on or before the first day of June, prepare a full, detailed report of the condition of the district hospital with an estimate of the probable cost of maintenance, operation, and needed repairs during the ensuing year, together with an inventory of all funds, effects, property and accounts belonging to such district and a list of all lawful demands, debts, and obligations against the district. Such report shall be made available by the Trustees to the Commissioners Court.

**Tax; assessment and collection; disposition**

Sec. 21. Following the investigation and consideration of said above report, the Commissioners Court shall cause to be assessed and collected

a hospital district tax upon all property in the district, whether real, personal, or otherwise, sufficient to maintain, keep in repair, to preserve and operate the district hospital, and to pay all legal, just, and lawful debts, damages, and obligations against such district. Such levy shall never, in any one (1) year, exceed twenty-five cents (25¢) on the One Hundred Dollars (\$100) valuation of such district for such year. Such taxes when so collected shall be placed in the construction and maintenance fund.

**Sale of bonds unneeded for purpose for which voted**

Sec. 22. If any bonds remain which are not required for the purpose for which they were voted, such bonds or a part thereof may be sold and the proceeds of the sale thereof may be placed in the construction and maintenance fund and used for the purpose stated in the Section next preceding.

**County tax assessor and collector; powers and duties;  
board of equalization**

Sec. 23. In the assessment and collection of the taxes authorized hereunder, and in all matters pertaining thereto or connected therewith, the County Tax Assessor and Collector shall have the same powers and shall be governed by the same rules, regulations, and proceedings as provided for the assessment and collection of State and county taxes, unless otherwise herein provided. The Commissioners Court shall constitute a board of equalization for such districts, and all laws governing boards of equalization for State and county taxing purposes shall govern such district board.

**Lien of taxes; when payable; penalty for nonpayment**

Sec. 24. The taxes authorized hereunder shall be a lien upon all property assessed therefor. The Commissioners Court shall, and it is empowered to, fix the time and determine the date when such taxes shall become due and payable; otherwise they shall become due and payable at the same time as State and county taxes. Upon the failure to pay such taxes when due, the penalty provided by law for failure to pay State and county taxes at maturity shall in every respect apply to taxes hereunder.

**Additional books for assessor and collector and county clerk;  
assessment; compensation of assessor**

Sec. 25. The Commissioners Court shall provide all necessary additional books for the use of the Assessor and Collector and the County Clerk of such district, and charge the cost of same to the district. When ordered by the Commissioners Court, the Assessor shall assess all property within the district and list the same for taxation in the books or rolls furnished him by said Commissioners Court for said purpose, and return said books or rolls when he returns the State and county rolls for correction and approval. If said court finds them correct, it shall approve the same and direct the County Clerk to issue a warrant against the County Treasurer in favor of the Assessor to be paid from the district funds. The Assessor shall receive for said services such pay as the Commissioners Court deems proper. If the Assessor fails or refuses to comply with such order, he shall be suspended from the further discharge of his duties by the Commissioners Court and removed from office in the mode prescribed by law for the removal of county officers.

**County tax collector; compensation for collection of taxes;  
bond or security**

Sec. 26. The County Tax Collector shall be charged by the Commissioners Court with the assessment rolls of the district and shall be allowed such compensation for the collection of said taxes as is allowed for the collection of other taxes. The Commissioners Court shall require said officer to give an additional bond or security in such sum as it deems proper and safe to secure the collection of said taxes. If such officer fails or refuses to give such additional security when requested by the court, within the time provided by law for such purposes, he shall be suspended from office by the Commissioners Court and immediately thereafter be removed from office in the mode prescribed by law.

**List of delinquent property**

Sec. 27. The collector shall make a certified list of all delinquent property upon which the public district hospital tax has not been paid, and return same to the Board of Trustees, which shall proceed to have the same collected by the sale of such property in the same manner provided by law for the sale of property for the collection of State and county taxes.

**Referendum on questions of separate tax assessor and separate  
board of equalization**

Sec. 28. After the establishment of a district, and upon the petition of not less than five per cent (5%) of the qualified taxpaying voters thereof the court may order an election to determine whether or not such district shall have a separate tax assessor, separate tax collector, and separate board of equalization for the assessment and collection of district taxes. Notice of such election shall be given as in the original election, and if said proposition carries by a two-thirds ( $\frac{2}{3}$ ) vote, the said Trustees shall appoint a suitable person as assessor and other such person as collector, and they shall give bond and exercise the same powers and perform the same duties as provided herein for the County Assessor and Collector; and the Trustees shall exercise all of the powers herein conferred upon said court with relation to the equalization of taxes, the general laws relating to the assessment, collection and equalization of taxes, insofar as applicable, shall apply to the assessment, collection and equalization of district taxes.

**Construction and maintenance fund, payments from and into;  
interest and sinking fund**

Sec. 29. After the establishment of a public hospital district all legal and just expenses, debts, and obligations other than bonds and interest thereon arising and created after the filing of the original petition and necessarily incurred in the creation, establishing, operation, and maintenance of such public district hospital shall be paid out of the construction and maintenance fund of such district, which fund shall consist of all money, effects, property, and proceeds received by such district from all sources, except that portion of the tax collections which shall be necessary to pay the interest on the bonded indebtedness as it falls due and the payment of bonds at maturity. Said tax collections shall be placed in and paid out of the interest and sinking fund of such district for such purposes, and such fund may be invested for the benefit of the district in such bonds and securities as the Attorney General may approve. Such funds shall be held for the respective purposes for which they were created.

Powers of district

Sec. 30. The public hospital district organized under the provisions of this Act shall have the power:

(a) To construct, condemn and purchase, purchase and acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital facilities and systems for the maintenance of hospitals, buildings, structures and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the Board of Trustees and constituted in the same manner and by the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the State of Texas in the acquisition of property rights. It is provided, however, that no public hospital district shall have the right of eminent domain and the power of condemnation against any hospital, clinic, or sanatorium operated as a charitable, nonprofit establishment or against a hospital, clinic or sanatorium operated by a religious group or organization, or against any privately owned or operated hospital or clinic, corporate or otherwise, in said district;

(b) To lease existing hospitals and equipment or other property used in connection therewith, and to pay such rental therefor as the Trustees shall deem proper; and said hospital district shall have the power to contract with other communities, corporations, or individuals for the services provided by said hospital district; and they may further receive in said hospital and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper; provided that it must at all times make adequate provision for the needs of the district, and residents of said district shall have prior rights to the available facilities of said hospitals, at rates set by the District Trustees;

(c) For the purposes aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance and operation of any such hospital, except as herein duly excepted in paragraph (a) of this Section;

(d) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the public hospitals thereof, and to issue bonds as herein provided;

(e) To enter into any contract with the United States Government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this Act;

(f) To sue and be sued in any court of competent jurisdiction; provided, that said public hospital district shall not be liable for negligence for any act of any officer, agent or employee of said district; and provided that all suits against the public hospital district shall be brought in the county in which the public hospital district is located;

(g) To make contracts, employ superintendents, attorneys and other technical or professional assistants and all other employees; to print and publish information or literature and to do all other things necessary to carry out the provisions of this Act.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Contracts; competitive bidding; notice; bond of contractor**

Sec. 31. Any contract of any nature whatsoever entered into by the Board of Trustees on behalf of said public hospital district in excess of Two Thousand Dollars (\$2,000) shall be let to the lowest bidder after advertising the same in one (1) or more newspapers of general circulation in this State once a week for four (4) consecutive weeks, and by posting notices thereof for at least twenty-five (25) days in four (4) public places in the county, one (1) at the courthouse door and at least two (2) within the district. Any person, firm or corporation desiring to bid on any such contract shall, upon application to the Trustees, be furnished with a copy of the plans and specifications or other data necessary in making said bid. All bids shall be in writing and sealed and delivered to the Chairman of the Board of Trustees, with a certified check for at least five per cent (5%) of the total amount bid; which shall be forfeited to the district in case the bidder refuses to enter into a proper contract if his bid is accepted. Any bid may be rejected if deemed too high. The contractor shall give bond in the amount of the contract price, payable to the Trustees, conditioned that he will faithfully perform the obligations, agreements, and covenants of the contract, and that in default thereof he will pay to said district all damages sustained by reason thereof. Said bond shall be approved by the Board of Trustees.

**Consolidation of certain districts; referendum; refunding bonds**

Sec. 32. The qualified electorate of the hospital districts as provided in Section 1, may, by majority vote of each such hospital district, consolidate the Sweeny Hospital District into the Damon, West Columbia, and Brazoria Hospital District at any time subsequent to the organization of the separate hospital districts. When it is proposed to consolidate the two (2) districts, five per cent (5%) of the qualified taxpaying voters of each district may, by petition, request the Commissioners Court to submit such a proposal to an election in each of the two (2) hospital districts. By the same petition and at the same election there shall be an election of seven (7) trustees to serve the consolidated district. No more than one (1) such election may be held after each general election. Both districts must separately approve the merger to effect the consolidation.

Refunding bonds may be issued by the district to refund any outstanding bonds (whether issued by said district or assumed by the district upon merger and whether such outstanding bonds are original or refunding bonds). Additional funding may be as provided by this Act. Acts 1961, 57th Leg., p. 1157, ch. 524.

Emergency. Approved June 17, 1961.

**Conditional Enactment**

*Enacted subject to approval of constitutional amendment in November, 1962. See note under this Article, post.*

Section 33 of the act provided:

"This Act shall take effect and be in force from and after the approval of a Constitutional Amendment proposal to be voted upon by the electorate of the State in November, 1962."

Effective upon adoption of constitutional amendment, Const. art. IX, sec. 10(a), proposed by House Joint Resolution No. 70, 57th Legislature, 1961, authorizing the creation, establishment, maintenance and operation of two hospital districts in Brazoria County.

**Art. 4494q—7. Hopkins County Hospital District**

**Adoption of senate joint resolution**

Section 1. Upon the adoption of Article IX, Section 9, as a part of the Constitution of the State of Texas, as proposed by Senate Joint Resolution No. 22 of the Fifty-seventh Legislature, Regular Session, 1961, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, such district to have boundaries coextensive with the boundaries of Hopkins County; said district shall have the powers and responsibilities provided by the aforesaid constitutional provision.

**Creation of district; election; ballots**

Sec. 2. Hopkins County may be constituted a hospital district as hereinafter set out, and may take over the hospital or hospital system, either owned separately by the county or jointly with a city within the county, or may provide for the establishment of a hospital or hospital system to furnish medical and hospital care to needy persons residing in said hospital district; provided, however, that such hospital district shall not be created unless and until an election is duly held in the county for such purpose, which said election may be initiated by the Commissioners Court of the county upon its own motion or upon a petition of one hundred (100) resident qualified property taxpaying electors, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At said election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not a hospital district shall be created in the county; and a majority of the qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary. The ballots shall have printed thereon:

“FOR the creation of a hospital district; providing for the levy of a tax not to exceed twenty-five cents (25¢) on the One Hundred Dollar valuation”; and

“AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed twenty-five cents (25¢) on the One Hundred Dollar valuation.”

If the county or city located therein, either or both of them, has any outstanding bonds theretofore issued for hospital purposes (which by the provisions of Section 7 of this Act are required to be assumed by the hospital district), then the ballots for such election shall, instead of the foregoing, have printed thereon:

“FOR the creation of a hospital district; providing for the levy of a tax not to exceed twenty-five cents (25¢) on the One Hundred Dollar valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by Hopkins County, and by any city in said county for hospital purposes”; and

“AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed twenty-five cents (25¢) on the One Hundred Dollar valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by Hopkins County, and by any city in said county for hospital purposes.”

**Canvass of returns; directors of district; appointment;  
terms of office; bond; officers**

Sec. 3. Within ten (10) days after such election is held, the Commissioners Court in the county shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, the court shall so find and declare the hospital district established and created and appoint five (5) persons as directors of the hospital district to serve until the first Saturday in April following the creation and establishment of the district, at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) directors shall serve for one (1) year. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said hospital district unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said district conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any three (3) members of the board of directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the district. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board of directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the district, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than one hundred (100) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the district. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

**Management and control of district**

Sec. 4. The management and control of such hospital district created pursuant to the provisions of this Act is hereby vested in the board of directors of the district who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

#### Levy of tax

Sec. 5. Upon the creation of such hospital district, the board of directors shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed twenty-five cents (25¢) on the One Hundred Dollar valuation of all taxable property within the hospital district, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the county in which the district is located. The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said hospital district is established for the purpose of securing funds to initiate the operation of the hospital district, and to pay assumed bonds.

#### Issuance of bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of the hospital district, and in the name and upon the faith and credit of the hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, provided said tax together with any other taxes levied for said district shall not exceed twenty-five cents (25¢) in any one (1) year. Such bonds shall be executed in the name of the hospital district and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General

of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such county. Upon the approval of such bonds by the Attorney General of Texas the same shall be incontestable for any cause. No bonds shall be issued by the hospital district (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in the hospital district, voting at an election called and held for such purpose. Such election may be called by the board of directors of its own motion, shall specify the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The costs of such election shall be paid by the hospital district.

In the manner hereinabove provided, the bonds of such hospital district may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by such hospital district and any bonds theretofore issued by such hospital districts; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed, upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the hospital district of the refunding bonds.

If Hopkins County or any city within such county has voted bonds to provide hospital facilities, but such bonds have not been sold and delivered at the date of the creation of the hospital district, the authority for such bonds shall be canceled and they shall not be sold.

#### Assumption of city and county assets and indebtedness

Sec. 7. Any lands, buildings or equipment that may be jointly or separately owned by the county and city within the boundaries of the district and by which medical services or hospital care, including geriatric care, are furnished to needy persons of the city and county, shall become the property of the hospital district; and title thereto shall vest in the hospital; and any funds of such city and county, or either, which are the proceeds of any bonds assumed by the hospital district, as hereby provided, shall become the funds of the hospital district; and title thereto shall vest in the hospital district; and there shall vest in the hospital district and become the funds of the hospital district the unspent portions of any funds theretofore set up or appropriated by budget or otherwise.

by such city or the county, or either of them, for the support and maintenance of the hospital facilities for the year within which the hospital district comes into existence, thereby providing such hospital district with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by such city or county, or either of them, for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said district but outstanding at the time of the creation of the district, shall be assumed and discharged by the hospital district without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the board of managers of such system until appointment and organization of the board of directors of the hospital district, at which time the board of managers of the present hospital system or systems shall turn over all records, property and affairs of said hospital system to the board of directors of the hospital district and shall cease to exist.

Any outstanding bonded indebtedness incurred by such city or county, either or both of them, in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by either of them for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the hospital district and become the obligation of the hospital district; and the city or county, either or both of them, that issued such bonds, shall be by the hospital district relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the city or the county, as the case may be, in the event of default in the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court and the city, where a hospital or hospital system is jointly operated, or the Commissioners Court, if the county owns the hospital or hospital system, as the case may be, as soon as the hospital district is created and authorized at the election hereinabove provided, and there have been appointed and qualified the board of hospital managers as hereinbefore provided, shall execute and deliver to the hospital district, to wit: to its said board of directors, an instrument in writing conveying to said hospital district the hospital property, including lands, buildings and equipment; and shall transfer to said hospital district the funds hereinabove provided to become vested in the hospital district, upon being furnished the certificate of the chairman of the board to the fact that a depository for the district's funds has been selected and has qualified; which funds shall, in the hands of the hospital district and of its board of directors, be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the county or the city transferring such funds could lawfully have used the same had they remained the property and funds of such county or city.

#### Purchases and expenditures

Sec. 8. The board of directors of the district shall have the power to prescribe the method and manner of making purchases and expenditures by and for the hospital district, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

such district; and may employ a general manager, attorney, bookkeeper and architect.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of the district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

#### Fiscal affairs

Sec. 9. The fiscal year of the hospital district authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the thirtieth (30th) day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

#### Eminent domain

Sec. 10. The hospital district organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by paragraph Number 2 in Article 3268, Vernon's Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary in-

junction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any court of civil appeals, or to the Supreme Court.

#### **Selection of depository**

Sec. 11. Within thirty (30) days after appointment and qualification of the board of directors of the hospital district, the said directors shall by resolution designate a bank or banks within the county in which the district is located as the district's depository or treasurer and all funds of the district shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years and until a successor has been named.

#### **Inspection by representatives of state agencies**

Sec. 12. The hospital district established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital district.

#### **Limiting powers of cities**

Sec. 13. Except as herein provided, Hopkins County once constituted a hospital district, and no city therein, shall thereafter levy any tax for hospital purposes; and such hospital district shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

That portion of delinquent taxes owed cities or to the county or levied for present city and county hospital systems under Acts of the Forty-eighth Legislature, 1943, Chapter 383, page 691, shall continue to be paid to the hospital district by the city and county as collected and applied by the hospital district to the purposes for which such taxes originally were levied.

#### **Patients; inquiry as to ability to pay; liability of relatives**

Sec. 14. Whenever a patient has been admitted to the facilities of the hospital district, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses,



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute.

#### Additional tax

Sec. 15. Hopkins County may levy and collect a tax of Ten Cents (10¢) on the One Hundred Dollar valuation of property in such county to aid in the operation of the district or the payment of the debts of such district, such tax to be in addition to other taxes permitted by the Constitution of Texas to be levied, all as provided in the aforesaid constitutional provision authorizing the creation of hospital districts for Ochiltree, Hansford, Castro and Hopkins counties; and such county and hospital district may contract whereby the district will assume all obligations of the county in respect to the care of indigents within such county in exchange for such funds of the county. No such contract shall extend for a period in excess of five (5) years, but may be renewed for a similar term or terms upon conditions satisfactory to the contracting parties, and during the term that the hospital district assumes all responsibilities, obligations and liabilities of the county, no tax may be levied by the county other than as specified herein.

#### Donations, gifts and endowments

Sec. 16. Said board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of hospital district.

#### Legal and authorized investments

Sec. 17. All bonds issued by or assumed by the districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

#### Suits

Sec. 18. The hospital district created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts in this State in the name of such district.

#### Severability clause

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto; whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the district or the validity of any other provision of this Act, and the Legis-

lature here declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1961, 57th Leg., 1st C.S., p. 165, ch. 43.

Effective 90 days after Aug. 8, 1961, date of adjournment.

Conditional Enactment

*Effective upon adoption of constitutional amendment, Const. art. IX, sec. 9, proposed by Senate Joint Resolution No. 22, 57th Legislature, 1961, authorizing the creation, establishment, maintenance and operation of three hospital districts within the state of Texas.*

CHAPTER SEVEN—NURSES

Art. 4521. Certificate from another State

Any applicant who holds a registration certificate as a professional registered nurse from another state, district, territory or possession of the United States, or from a foreign country, may be issued a license to practice as a professional registered nurse in the State of Texas by endorsement and without examination upon the payment of a fee of Twenty Dollars (\$20.); provided in the opinion of the Board of Nurse Examiners such other board issuing such other certificate in its examination required the same general degree of fitness required by this state. As amended Acts 1961, 57th Leg., p. 455, ch. 226, § 1.

-Emergency. Effective May 25, 1961.

Art. 4524. Recording certificate

*Repeal of fee provisions, see art. 3930a, note.*

CHAPTER NINE—DENTISTRY

Art. 4544. Examination for License to Practice Dentistry

It shall be the duty of the Board to examine all applicants for license to practice dentistry in this State; and the Board shall examine and grade all papers submitted by such applicants and report to such applicants within a reasonable time after the date of such examination, and said report shall give to each applicant the grades made by said applicant upon each and every subject which he or she was examined by said Board. Each person applying for an examination shall pay to said Board a fee of Fifty Dollars (\$50) and shall be granted a license to practice dentistry in this State upon his satisfactorily passing an examination before said Board on subjects and operations pertaining to dentistry which shall include Anatomy, Physiology, Anaesthesia, Biochemistry, Dental Materials, Diagnosis, Treatment Planning, Ethics, Jurisprudence, Hygiene, Pharmacology, Operative Dentistry, Oral Surgery, Orthodontia, Periodontia, Prosthetic Dentistry, Pathology, Microbiology, and such other subjects as are regularly taught in reputable Dental Schools as the Board may in its discretion require. The examination shall be given either orally or in writing, or by giving a practical demonstration of the applicant's skill, or by any combination of such methods or subjects as the Board may in its discretion require. As amended Acts 1961, 57th Leg., p. 1101, ch. 496, § 3.

-Emergency. Effective June 17, 1961.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 4546. County clerk to record license; fee**

*Repeal of fee provisions, see art. 3930a, note.*

**Art. 4550a. Application, Registration Fund, and Secretary**

1. It shall be the duty of all persons now lawfully qualified and engaged in the practice of dentistry in this State, or who shall hereafter be licensed for such practice by the State Board of Dental Examiners, to annually apply and to be registered as such practitioners with the State Board of Dental Examiners on or before March 1st of each calendar year. Each person so registering shall pay in connection with such annual registration for the receipt hereinafter provided for, a fee of not less than Two Dollars (\$2) nor more than Twelve Dollars (\$12) as determined by said Board according to the needs of said Board, such payment to be made by each licensee to such Board, and every person so registering shall file with said Board a written application setting forth such facts as the Board may require. Upon receipt of such applications, accompanied by such fees, said Board, after ascertaining either from its records or other sources deemed by it to be reliable, that the applicant is a duly licensed practitioner of dentistry in this State, shall issue to the applicant an annual registration certificate or receipt certifying that he has filed such application and has paid the required fee; provided, that the filing of such application, the payment of such fee, and the issuance of such receipt therefor, shall not entitle the holder thereof to lawfully practice dentistry within the State of Texas unless he has in fact been previously licensed as such practitioner by the State Board of Dental Examiners, as provided by this Law, and has duly recorded his license in the county or counties in which the same may be required by law to be recorded, and unless said license is in full force and effect; and provided further, that in any prosecution for the unlawful practice of dentistry such receipt showing payment of the annual registration fee required by this Chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice dentistry. As amended Acts 1961, 57th Leg., p. 1101, ch. 496, § 5.

3. All annual registration fees collected by the State Board of Dental Examiners under this Act shall be placed in the State Treasury every thirty (30) days, as collected, to the credit of a special fund to be known as the 'Dental Registration Fund,' and all expenditures from this fund shall be on order of the State Board of Dental Examiners, on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature in the General Appropriations Bills. The State Board of Dental Examiners shall be authorized to employ and to compensate from such special funds employees and such other persons as may be found necessary to assist the local prosecuting officers of any county in the enforcement of all laws of the State prohibiting the unlawful practice of dentistry, and to carry out the other purposes for which said fund is hereby appropriated. Provided, that all such prosecutions shall be subject to the direction and control of the regularly and duly constituted prosecuting officers, and nothing in this Act shall be construed as depriving them of any authority vested in them by law. As amended Acts 1961, 57th Leg., p. 1101, ch. 496, § 2.

4. To aid the Board in performing the duties prescribed in this Section, the Board is hereby authorized to employ an Executive Secretary who shall receive a salary to be fixed by the Board, and who shall make and file a surety bond in a sum not less than Five Thousand Dollars (\$5,000) conditioned for the faithful performance of all the duties of his office and the safekeeping and proper disbursement of said 'Dental

Registration Fund' and all other funds coming into his hands; such salary shall be paid out of said 'Dental Registration Fund' and shall not be in any way a charge upon the general revenue of the State. Said Board shall employ and provide such other employees as may be needed to assist the Executive Secretary in performing his duties and in carrying out the purposes of this Act, provided that their compensation shall be paid only out of the said 'Dental Registration Fund.' All disbursements from 'Dental Registration Fund' shall be made only upon the written approval of the President and Secretary of said Board and upon warrants drawn by the Comptroller to be paid out of said fund. As amended Acts 1961, 57th Leg., p. 1101, ch. 496, § 2.

Emergency. Effective June 17, 1961.

#### Art. 4551b. Exceptions

(8). Dental Health Service Corporations legally chartered under Subsection (1) of Article 2.01, of the Texas Nonprofit Corporation Act. Added Acts 1961, 57th Leg., p. 959, ch. 418, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

Incorporation of dental health service corporations, see Texas Non-Profit Corporation Act, art. 2.01, Vol. 3A, pocket part.

Similar provisions, see Vernon's Ann.P.C. art. 753.

#### Art. 4551e. Dental hygienists; regulation and licensing

Sec. 5. The Texas State Board of Dental Examiners shall hold meetings at such times and places as the Board shall designate for the purpose of examining qualified applicants for certification as dental hygienists in this State. All applicants for examination shall pay a fee of Thirty-five Dollars (\$35) to said Board and shall apply upon forms furnished by the Board and shall furnish such other information as the Board may in its discretion require to determine any applicant's qualifications. The Board shall have authority to employ the services of such examiners and clerks as may be needed to aid the Board in the performance of such duties. The examination shall be taken by all applicants on such subjects and operations pertaining to dentistry and dental hygiene which shall include Dental Anatomy, Pharmacology, X-Ray, Ethics, Jurisprudence, and Hygiene, and such other subjects as are regularly taught in reputable schools of dentistry and dental hygiene, as the Board in its discretion may require. The examination shall be given orally or in writing, or by giving a practical demonstration of the applicant's skill or by any combination of such methods or subjects as the Board may in its discretion require. The Board shall grade each applicant upon the various phases of the examination and shall report such grades to the applicant within a reasonable time after such examination, and each applicant who has satisfactorily passed all phases of the examination as determined by the Board shall be entitled to and shall be issued a certificate permitting such applicant to practice dental hygiene in the State of Texas as is defined and regulated by the law of this State. As amended Acts 1961, 57th Leg., p. 1101, ch. 496, § 4.

Emergency. Effective June 17, 1961.

### CHAPTER THIRTEEN—ANATOMICAL BOARD

#### Art. 4584. [5757] Regulations for delivering bodies

All public officers, agents and servants of the state and all officers, agents and servants of any county, city, town, district, or other municipi-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

pality, and of any other institution, having charge or control of dead bodies required to be buried at public expense, or bodies not claimed for burial, are hereby required (after notification in writing to do so by the Anatomical Board or its duly authorized officers, or persons designated by the authorities of said Board, then and thereafter) to announce to said Board, its authorized officer or agent, whenever such body or bodies come into his or their possession, charge or control, and must deliver such body at the discretion of the Anatomical Board, and permit the said Board and its agents, and the physicians and surgeons from time to time designated by it, who may comply with the provisions of this law, to take and remove any such body to be used within this state for the advancement of medical science.

No such notice need be given, nor any such body be delivered, if any person claiming to be and satisfying the authorities in charge of such body that he or she is of a kindred or is related by marriage to the deceased, or is a bona fide friend or representative of an organization of which the deceased was a member, may claim the said body for burial. The body shall be surrendered to the claimant, without payment to the authority in charge. To claim a body as a bona fide friend, an individual must present in writing a statement of the relationship considered to be proof of being a true bona fide friend. A similar written statement is also required of an individual representing an organization of which the deceased was a member.

A bona fide friend is herein defined as one who is 'like one of the family' and is not an ordinary acquaintance. It does not include the people that follow: any officer, agent or servant of the state, or of any county, town, city, district, or other municipality and any almshouse, prison, morgue, hospital, mortuary, or any other institution having charge of dead human bodies required to be buried at public expense, or bodies not claimed for burial; any employee of these with which the deceased was associated; and any patient, inmate, or ward of the institution or institutions with which the deceased was associated. These exceptions do not apply in case the friendship existed prior to the time the deceased entered the institution.

If no claimant appears immediately after death, the body shall be embalmed within twenty-four hours. It is further required that due effort be made for a period of seventy-two hours by those in charge of such almshouse, prison, morgue, hospital, mortuary, or other institution having charge or control of such dead human bodies, to find kindred or relatives of such deceased and to notify them of the death. Failure by kindred or relation to claim such body within forty-eight hours after receipt of such notification shall be recognized as bringing such body under the provision of this law, and delivery shall be made as soon thereafter as may be possible to the Anatomical Board, its officers or agents. The person in charge of such institution shall file with the County Clerk an affidavit that he has made diligent inquiry to find the kindred or relatives of the deceased, stating what inquiry he has made. A body may be claimed by relatives within sixty (60) days after it has been delivered to an institution or other agency entitled to receive the same under the provisions of the law, and it shall be released to them without cost. Permission for autopsy of unclaimed bodies may be granted only by the Anatomical Board following a specific request to the Board showing sufficient evidence of medical urgency. If the body was that of a traveler who died suddenly, the Anatomical Board shall direct the institution receiving the body that it be kept for six months for purposes of identification.

Any inhabitant of the State of Texas of legal age and of sound mind may, by his will or by other written instrument, arrange for or prescribe that his body be used for the purpose of advancing medical science and that it be delivered to a medical school or dental school, or other donee authorized by the Anatomical Board. Any such bequest shall be by written instrument signed by the person making or giving the same and shall be witnessed by two (2) persons of legal age. No particular form or words shall be necessary or required for the bequest or authorization, provided that the instrument conveys the clear intention of the person making the same. No appointment of administrator, executor, or court order shall be necessary before delivery of said body. The donor may revoke this disposition of his body at any time by execution of a written instrument in the same or similar manner as the original donation and bequest.

In the event any political subdivision or agency thereof, having charge or control of dead bodies required to be buried at public expense, or bodies not claimed for burial, is not required by the Anatomical Board to deliver said body to said Anatomical Board or parties of its designation, then in such event all costs of preparation for burial, including but not limited to embalming, shall be paid by the political subdivision. In the event, however, that said political subdivision is required by the Anatomical Board to deliver said body to said Anatomical Board or parties of its designation, then in such event all costs of transportation and/or preparation for burial or transportation, including but not limited to embalming, shall be paid by the Anatomical Board. As amended Acts 1961, 57th Leg., 1st C.S., p. 147, ch. 36, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

#### Art. 4590—1. Donation and bequest of human bodies and organs

Execution of instrument; designation of donee; authority and liability of physician; revocation of bequest

Sec. 2. Any such bequest, donation, authorization or consent made pursuant to Section 1 of this Act shall be by written instrument signed by the person making or giving the same and shall be witnessed by two (2) persons of legal age. Each instrument may designate the donee, but such designation shall not be necessary to its validity.

The donee for a body shall be a medical or dental school or other legally authorized donee approved by the Anatomical Board of the State of Texas. The body is to be handled and recorded under the regulations specified by the Anatomical Board. If no donee is specified for a body in the bequest the Anatomical Board shall direct its disposition. A donee for organs, members, or parts thereof may be an individual physician, hospital, institution, or a bank maintained for the storage, preservation, and use of human organs, members, or parts thereof. If no specific donee is named for organs, members, or parts thereof, then the hospital in which the donor dies shall be considered to be the donee; and if such donor does not die in a hospital, then the attending physician shall be considered to be the donee; and such hospital or physician shall have full authority to take and remove said organs, members, or parts thereof which such donor has designated and to make the same available to any person or institution in need thereof.

Any duly licensed physician acquiring possession or custody of the body shall have the authority to remove from the body the organs, members, or parts thereof which the donor has designated and to deliver the

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

same, or where so designated, the body, to the medical or dental school specified. The hospital or physician shall not be liable civilly or criminally for removing said organs or any part thereof from the body, providing the donor has, prior to death, executed a valid written agreement as provided herein. No appointment of administrator, executor, or court order shall be necessary before the removal of said organs.

Revocation of any bequest, donation, authorization or consent given pursuant to the provisions of this Act may be effected by written notification to the donee signed by the person making or giving the same and shall be witnessed by two persons of legal age. As amended Acts 1961, 57th Leg., 1st C.S., p. 150, ch. 37, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

#### CHAPTER SEVENTEEN—NATUROPATHY

Art. 4590d. Repealed. Acts 1961, 57th Leg., p. 263, ch. 138, § 1. Eff. 90 days after May 29, 1961, date of adjournment

*Section 2 of the Act of 1961 provided:*

*"Sec. 2. The Naturopathic Reregistration Fund (No. 210) is hereby abolished and the balance in that Fund on the effective date of this Act shall be transferred to the General Revenue Fund within thirty (30) days of the effective date of this Act."*

*Repeal of fee provisions, see art. 3930a, note.*

#### CHAPTER NINETEEN—NUCLEAR AND RADIOACTIVE MATERIALS [NEW]

Art.

4590f. Nuclear and radioactive materials; sources of ionization radiation; licensing and registration.

Art. 4590f. Nuclear and radioactive materials; sources of ionization radiation; licensing and registration

##### Declaration of Policy

Section 1. It is the policy of the State of Texas in furtherance of its responsibility to protect the public health and safety:

(1) To institute and maintain a regulatory program for sources of ionizing radiation so as to provide for (a) compatibility with the standards and regulatory programs of the Federal Government, (b) a single, effective system of regulation within the state, and (c) a system consonant insofar as possible with those of other states; and

(2) To institute and maintain a program to permit development and utilization of sources of ionizing radiation for peaceful purposes consistent with the health and safety of the public.

##### Purpose

Sec. 2. It is the purpose of this Act to effectuate the policies set forth in Section 1 by providing for:

(1) A program of effective regulation of sources of ionizing radiation for the protection of the occupational and public health and safety;

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the Federal Government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized; and

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source and special nuclear materials; and

(4) A program to permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public.

#### Definitions

Sec. 3. (a) By-product material means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(b) Ionizing radiation means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(c) License—General and Specific.

(1) General license means a license effective pursuant to regulations promulgated by the Texas State Radiation Control Agency without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing by-products, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(2) Specific license means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(d) Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Atomic Energy Commission, or any successor thereto, and other than Federal Government Agencies licensed by the United States Atomic Energy Commission, or any successor thereto.

(e) Source materials means (1) uranium, thorium, or any other material which the Governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the Governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material.

(f) Special nuclear material means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Governor declares by order to be special nuclear material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such, but does not include



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(g) Registration means notification of the Agency within thirty (30) days following the commencement of an activity involving the operation of ionizing radiation producing equipment or the manufacture, use, handling or storage of radioactive material. Said notice shall state the location, nature, and scope of such operation, manufacture, use, handling or storage, and shall be reviewed and if necessary brought up to date annually thereafter. Acknowledgment of registration shall not imply the approval by the Agency but shall merely indicate that the Agency has a record of the locations and establishments where ionizing radiation producing equipment and/or radioactive materials are used, or stored.

(h) Excessive exposure means the exposure to ionizing radiation in excess of the maximum permissible levels as provided under rules or regulations adopted by the Texas State Board of Health.

#### State Radiation Control Agency

Sec. 4. (a) The Texas State Department of Health is hereby designated as the State Radiation Control Agency, hereinafter referred to as the Agency.

(b) The Commissioner of the Texas State Department of Health shall designate an individual to be Director of the Radiation Control Program, hereinafter referred to as the Director, who shall perform the functions vested in the Agency pursuant to the provisions of this Act.

(c) In accordance with the laws of the State of Texas, the Agency may employ, compensate, and prescribe the powers and duties of such individuals as may be necessary to carry out the provisions of this Act.

(d) The Agency shall for the protection of the occupational and public health and safety:

(1) Develop programs for evaluation of hazards associated with use of sources of ionizing radiation;

(2) Develop programs with due regard for compatibility with federal programs for regulation of by-product, source, and special nuclear materials;

(3) Formulate, adopt, promulgate and repeal codes, rules and regulations, which may provide for licensing, relating to control of sources of ionizing radiation with due regard for compatibility with the regulatory programs of the Federal Government. Rules and regulations shall not become effective until ninety (90) days after adoption by the State Radiation Control Agency;

(4) Issue such orders of modifications thereof as may be necessary in connection with proceedings under Section 6 of this Act;

(5) Advise, consult, and cooperate with other agencies of the state, the Federal Government, other states and interstate agencies, political subdivisions, and with groups concerned with control of sources of ionizing radiation;

(6) Have the authority to accept and administer loans, grants or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the Federal Government and from other sources, public or private;

(7) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of ionizing radiation; and

(8) Collect and disseminate information relating to control of sources of ionizing radiation, including:

a. Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations;

b. Maintenance of a file of registrants possessing sources of ionizing radiation requiring registration under the provisions of this Act and any administrative or judicial action pertaining thereto; and

c. Maintenance of a file of all rules and regulations relating to regulation of sources of ionizing radiation, pending or promulgated, and proceedings thereon.

#### Radiation Advisory Board

Sec. 5. (a) There is hereby established a Radiation Advisory Board consisting of nine (9) members. The Governor shall appoint to the Board individuals as follows: one (1) from industry, who shall be trained in the field of nuclear physics, science and/or nuclear engineering, one (1) from labor, one (1) from agriculture, one (1) from insurance, one (1) from public safety, one (1) hospital administrator, and three (3) persons licensed by the Texas State Board of Medical Examiners specializing in: one (1) from nuclear medicine or physics, one (1) from pathology, and one (1) from radiology. Of the nine (9) members of the Board first appointed under the provisions of this Act, three (3) shall serve for a period of six (6) years; three (3) shall serve for a period of four (4) years; three (3) for a period of two (2) years, or until their successors shall be appointed and shall have qualified, unless sooner removed for cause. After the expiration of the terms of the first appointees to the Board, the terms of all members shall be for six (6) years. Provided, members of the Board shall receive no salary for services but may be reimbursed for actual expenses incurred in connection with attendance at Board meetings or for authorized business of the Board.

(b) The Advisory Board shall:

(1) Review and evaluate policies and programs of the state relating to ionizing radiation.

(2) Make recommendations to the Texas State Radiation Control Agency and furnish such technical advice as may be required on matters relating to development, utilization and regulation of sources of ionizing radiation.

(3) Review proposed rules and regulations of the State Radiation Control Agency relating to use and control of sources of ionizing radiation to assure that such rules and regulations are consistent with rules and regulations of other agencies of the state and report its findings to the State Radiation Control Agency.

(4) A majority of the Board shall constitute a quorum for the transaction of business. The Board shall elect from its membership a Chairman, Vice-Chairman, and Secretary. A record of all meetings shall be kept and the Board shall meet at Austin, quarterly, on a date to be fixed by the Board, and shall hold such special meetings as may be called by the Commissioner of Health or any three (3) members of the Board. Such special meetings may be held at any designated place within the State of Texas as determined by the Commissioner of Health to best serve the purpose for which the special meeting is called. Timely notice of such special meetings shall be given to each member.

**Licensing and Registration of Sources of Ionizing Radiation**

Sec. 6. (a) The Texas State Radiation Control Agency shall provide by rule or regulation for general or specific licensing of by-product, source, special nuclear materials, or devices or equipment utilizing such materials. Such rules or regulations shall provide for amendment, suspension or revocation of licenses. Such rules or regulations shall provide that:

(1) Each application for a specific license shall be in writing and shall state such information as the Agency by rule or regulation may determine to be necessary to decide the technical, insurance and financial qualifications or any other qualification of the applicant as the Agencies or Agency may deem reasonable and necessary to protect the occupational and public health and safety. The Agency may at any time after the filing of the application, and before the expiration of the license, require further written statements and may make such inspections as the Agency may deem necessary in order to determine whether the license should be granted or denied or whether the license should be modified, suspended or revoked. All applications and statements shall be signed by the applicant or licensee. The Agency may require any applications or statements to be made under oath or affirmation;

(2) Each license shall be in such form and contain such terms and conditions as the Agency may by rule or regulation prescribe;

(3) No license issued under the authority of this Act and no right to possess or utilize sources of ionizing radiation granted by any license shall be assigned or in any manner disposed of; and

(4) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations or orders issued in accordance with the provisions of this Act.

(b) The Texas State Radiation Control Agency is authorized to require registration or licensing of other sources of ionizing radiation.

(c) The Texas State Radiation Control Agency is authorized to exempt certain sources of ionizing radiation or kinds of uses or users from the licensing or registration requirements set forth in this Section when the Agency makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(d) Rules and regulations promulgated pursuant to this Act may provide for recognition of other state or federal licenses as the Texas State Radiation Control Agency shall deem desirable, subject to such registration requirements as the Agency may prescribe.

**Inspection**

Sec. 7. The Texas State Radiation Control Agency or their duly authorized representatives shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violations of the provisions of this Act and rules and regulations issued thereunder; except that entry into areas under the jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.

**Records**

Sec. 8. (a) The Texas State Radiation Control Agency shall require each person who possesses or uses a source of ionizing radiation to maintain records relating to its utilization receipt, storage, transfer or disposal and such other records as the Agency may require subject to such exemptions as may be provided by rules or regulations.

(b) The Texas State Radiation Control Agency shall require each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules and regulations of the Agency. Copies of these records and those required to be kept by Subsection (a) of this Section shall be submitted to the Agency on request. Any person possessing or using a source of ionizing radiation shall furnish to each employee for whom personnel monitoring is required a copy of such employee's personal exposure record annually, at any time such employee has received excessive exposure, and upon termination of employment.

**Federal-State Agreements**

Sec. 9. (a) The Governor, on behalf of this state, is authorized to enter into agreements with the Federal Government providing for discontinuance of certain of the Federal Government's responsibilities with respect to sources of ionizing radiation and the assumption thereby by this state.

(b) Any person who, on the effective date of an agreement under Subsection (a) above, possesses a license issued by the Federal Government, shall be deemed to possess the same pursuant to a license issued under this Act, which shall expire either ninety (90) days after receipt from the Texas State Radiation Control Agency of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

**Inspection Agreements and Training Programs**

Sec. 10. (a) The Texas State Radiation Control Agency is authorized to enter into, subject to the approval of the Governor, an agreement or agreements with the Federal Government, other states or interstate agencies, whereby this state will perform on a cooperative basis with the Federal Government, other states or interstate agencies, inspections or other functions relating to control of sources of ionizing radiation.

(b) The Texas State Radiation Control Agency may institute training programs for the purpose of qualifying personnel to carry out the provisions of this Act, and may make said personnel available for participation in any program or programs of the Federal Government, other states or interstate agencies in furtherance of the purposes of this Act.

**Conflicting Laws**

Sec. 11. Regulations, ordinances, or resolutions, now or hereafter in effect, of other State Agencies, the governing body of a municipality or county or board of health relating to by-product, source and special nuclear materials shall not be superseded by this Act; provided, that such regulations, resolutions, or ordinances are and continue to be consistent with the rules and regulations promulgated by the Texas Radiation Control Agency under the provisions of this Act.

**Administrative Procedure and Judicial Review**

Sec. 12. (a) In any proceeding under this Act:

(1) For the issuance or modifications of rules and regulations relating to control of sources of ionizing radiation; or

(2) For granting, suspending, revoking, or amending any license; or

(3) For determining compliance with or granting exceptions from rules and regulations of the Texas State Radiation Control Agency, the Agency shall afford an opportunity for a hearing before the Radiation Advisory Board on the record upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. Upon the conclusion of such hearing, the findings and recommendations of the Radiation Advisory Board shall be reported to the Texas Radiation Control Agency.

(b) Whenever the Texas State Radiation Control Agency finds that an emergency exists requiring immediate action to protect the public health and safety, the Agency may, without notice or hearing, issue a regulation or order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding any provision of this Act, such regulation or order shall be effective immediately. Any person to whom such regulation or order is directed shall comply therewith immediately, but on application to the Agency shall be afforded a hearing within ten (10) days. On the basis of such hearing, the emergency regulation or order shall be continued, modified or revoked within thirty (30) days after such hearing.

(c) Any final order entered in any proceeding under Subsections (a) and (b) above shall be subject to judicial review by any District Court of Travis County, Texas, in the manner prescribed.

**Injunction Proceedings**

Sec. 13. Whenever, in the judgment of the Texas State Radiation Control Agency, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or any rule, regulation or order issued thereunder, and at the request of the Agency, the Attorney General may make application to any District Court in Travis County for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the Agency that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

**Prohibited Uses**

Sec. 14. It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of ionizing radiation unless licensed by or registered with the Texas State Radiation Control Agency in accordance with the provisions of this Act.

**Impounding of Materials**

Sec. 15. The Texas State Radiation Control Agency shall have the authority in the event of any emergency to impound or order the impounding of sources of ionizing radiation, in the possession of any person who is not equipped to observe or fails to observe the provisions of this Act or any rules or regulations issued thereunder.

## Penalties

Sec. 16. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), and for the second or subsequent offense shall be subject to a fine of not less than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for a period of not more than one (1) year or both such fines and imprisonment. Acts 1961, 57th Leg., p. 138, ch. 72.

Emergency. Effective April 17, 1961.

Section 17 of this act was a severability provision. Section 18 repealed all conflicting laws and parts of laws. The first sentence of section 19 declared an emergency and the second sentence provided that the provisions of this act relating to the control of by-products, source and special nuclear materials shall become effective on the effective date of the agreement between

the Federal Government and Texas as provided in section 9 of this act.

## Injunction—

Grounds, see art. 4642;

Rules relating to proceedings, see Vernon's Texas Rules of Civil Procedure, Rule 680 et seq.

Southern region nuclear compact, see art. 4413b—2.

## TITLE 75—HUSBAND AND WIFE

## CHAPTER THREE—RIGHTS OF MARRIED WOMEN

## Art. 4614. [4621] [2967] [2851] Wife's separate property

(d) A married woman twenty-one (21) years of age, or over, who is a resident of the State of Texas, may file with the County Clerk of the county of which she is a resident and with the County Clerk or Clerks of other counties in which she owns real estate, a duly acknowledged statement that she thereby elects to have sole management, control and disposition of her separate property. A married woman twenty-one (21) years of age or over, who is not a resident of Texas may file such a statement with the County Clerk in each county in this state in which she owns real estate. From and after the date of the initial filing of such statement, which shall be recorded by the County Clerk in the Deed Records of said county, such married woman shall have the full authority to deal with her separate property as set forth in Subsection (b) and the limitation upon such authority contained in Subsection (c) shall not thereafter apply. And in no event shall it be necessary or required that the husband be joined or consent to such statement. As amended Acts 1961, 57th Leg., p. 446, ch. 219, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## CHAPTER FOUR—DIVORCE

Art.  
4639a-1. Child Requiring Custodial Care  
[New].

## Art. 4639a. Further provision as to children, petition, judgment

Section 1. Each petition for divorce shall set out the name, age, sex and residence of each child under eighteen (18) years of age born of the marriage sought to be dissolved, if any such child or children there be; and if there be no such child or children, then the petition shall so state. No court having jurisdiction of suit for divorce shall hear and determine any such suit for divorce unless such information is set out in such petition or in each cause of action for divorce. Upon the trial of any such cause, and in the event a divorce is granted by the court, if there are such minor children, it shall be the duty of such trial court to inquire into the surroundings and circumstances of each such child or children, and such court shall have full power and authority to inquire into and ascertain the financial circumstances of the parents of such child or children, and of their ability to contribute to the support of same, and such court shall make such orders regarding the custody and support of each such child or children, as is for the best interest of same; provided, however, that the judgment of the court in a jury trial of a divorce cause may not contravene the jury's determination of child custody. In any hearing held in this State concerning the custody of a child, whether pursuant to a divorce cause or not, any party to the hearing may, upon assumption of jury costs, demand a jury to determine custody of the child, and the judgment of the court must conform to that determination.

The court may by judgment order either parent to make periodical payments for the benefit of such child or children, until same have reached the age of eighteen (18) years, or, said court may enter a judgment in a fixed amount for the support of such child or children, and such court shall have full power and authority to enforce said judgments by civil contempt proceedings after ten (10) days notice to such parent of his or her failure or refusal to carry out the terms thereof, and for the purpose of ascertaining the ability of the parents of such child or children to contribute to the support of same, they may be compelled to testify fully in regard thereto, under penalty of contempt of court, as in other cases. Said court shall have power and authority to alter or change such judgments, or suspend the same, as the facts and circumstances and justice may require, upon notice to such parent as above provided for, or with his or her consent. As amended Acts 1961, 57th Leg., p. 663, ch. 305, § 1. Emergency. Effective June 14, 1961.

**Art. 4639a—1. Children Requiring Custodial Care**

In addition to all other requirements, each petition for divorce shall further set out, if such is a fact, that (1) an unmarried child, born of the marriage sought to be dissolved, is physically or mentally unsound and requires custodial care, and (2) that such child cannot adequately take care of or provide for himself, and (3) that such child has no personal estate or income sufficient to provide for his reasonable and necessary care. If the Court shall find all of such has been proven by full and satisfactory evidence the Court may require and enforce support payments for such child, whether a minor or not, subject to the power and authority of the Court to alter, change, suspend, or otherwise revise its judgments as the facts and circumstances may require and in the manner required by law. Added Acts 1961, 57th Leg., 1st C.S., p. 135, ch. 31, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.



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## CHAPTER ONE—THE BOARD, ITS POWERS AND DUTIES

## Art. 1.04. Duties and Organization of the State Board of Insurance

(e) Repealed. Acts 1961, 57th Leg., p. 566, ch. 264, § 2.

Effective 90 days after date of adjournment.

Prior to repeal, section (e) of this article regulated board meetings.

Section 1 of Acts 1961, 57th Leg., p. 849, ch. 378, amending Acts 1957, 55th Leg., p. 1454, ch. 499, § 6 as amended by Acts 1959, 56th Leg., 2nd C.S., p. 103, ch. 14, § 1, read as follows:

"Sec. 6. The State Board of Insurance shall not enter into any extension of lease,

leases, or contracts with and shall make no expenditures of money for the purpose of housing or quarters for the Board to any individual, group of individuals, or groups connected directly or indirectly with any insurance company, insurance agency, insurance brokerage, or insurance adjuster.

"It is expressly provided, however, that the Board shall comply with the provisions hereof not later than August 31, 1963."

Unauthorized insurers false advertising process act, see art. 21.21—1.

## Art. 1.05. Bond and Compensation

(a) Each of the members of the State Board of Insurance shall, before entering upon the duties of this office, give a bond to the State of Texas, executed by a surety company licensed to do business in the State of Texas, in a sum of Fifty Thousand Dollars (\$50,000.00), to be approved by the Governor, conditioned upon the faithful discharge of the duties of his office.

(b) The members of the State Board of Insurance shall receive an annual salary of not to exceed Twenty Thousand Dollars (\$20,000.00) payable in monthly installments as provided in the General Appropriation Bill. As amended Acts 1957, 55th Leg., p. 1454, ch. 499, § 2; Acts 1961, 57th Leg., p. 566, ch. 264, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Art. 1.09—3. Certain Acts Shall be Unlawful

All members of the State Board of Insurance, Commissioner of Insurance, and all employees and agents of the State Board of Insurance shall be subject to the code of ethics and the standard of conduct imposed by Chapter 100, Acts of the Fifty-fifth Legislature, Regular Session, 1957.<sup>1</sup> Acts 1951, 52nd Leg., p. 491, ch. 491, art. 1.09—3 added Acts 1957, 55th Leg., p. 1454, ch. 499, § 5, as amended Acts 1961, 57th Leg., p. 1171, ch. 526, § 1.<sup>1</sup> Vernon's Ann.Civ.St. art. 6252—9.

Effective 90 days after May 29, 1961, date of adjournment.

igation pending as of the effective date of this Act."

Section 2 of the amendatory act of 1961 provided: "This Act does not apply to lit-

## Art. 1.14. Shall Issue Certificate of Authority

Stipulated premium insurance companies, see art. 22.18.

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**Art. 1.15. To Examine Carriers**

Stipulated premium insurance companies, original examination and certificate, see art. 22.05.

**Art. 1.19. In Case of Examination**

Stipulated premium insurance companies, see art. 22.18.

**Art. 1.24. To Make Inquiries of Company**

Stipulated premium insurance companies, see art. 22.18.

**CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES****Art. 2.07. Shares of Stock**

**Sec. 1. Division.** (a) The shares of any insurance company organized under the laws of this State, if shares with a nominal or par value, shall be divided into shares of not less than One Dollar (\$1) each, and not more than One Hundred Dollars (\$100) each and the stockholders of any such company authorizing the issuance of its stock with a nominal or par value shall be required in good faith to subscribe and fully pay for shares representing at least fifty per cent (50%) of the aggregate par value of the shares authorized to be issued with a nominal or par value before said company shall be chartered or have its charter amended so as to authorize the issuance of shares with a nominal or par value. At the time of filing of an original charter or any amendment of an existing charter authorizing issuance of stock of a nominal or par value, the company shall file a statement under oath with the State Board of Insurance setting forth the aggregate number of shares with a nominal or par value subscribed and the actual aggregate consideration received by the company for such shares. Any and all such shares with a nominal or par value issued in accordance with the provisions of this Section shall be fully paid stock and not liable to any further call or assessment thereon, nor shall the subscriber or holder be liable for any further payments. The consideration received for such shares shall constitute capital to the extent of the par value of such share, and the excess, if any, of such consideration shall constitute surplus. In no event shall the capital or surplus be less than the minimum required by this Chapter.

(b) In the event all of the shares with a nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares with nominal or par value are sold and issued, the company shall file with the State Board of Insurance, within ninety (90) days after the issuance of such shares a certificate authenticated by the majority of the directors setting forth the aggregate number of such additional shares so issued and the actual aggregate consideration received by the company for such shares. The consideration received for such shares shall constitute capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute surplus. All shares with a nominal or par value issued by the company shall be fully paid for prior to issuance at a rate of not less than the par value thereof. No further act on the part of the company and no charter amendment shall be necessary to effect the increase in capital or surplus, or both, of the company.

(c) The aggregate number of shares which the company has authority to issue may be increased or decreased from time to time by lawful charter amendment as long as shares representing at least fifty per cent (50%) of the aggregate par value of the shares authorized to be issued with a nominal or par value is in good faith subscribed and paid for in full.

(d) The privileges and powers conferred by this Article shall be in addition to any and all powers and privileges conferred by any other law or laws, and not in restriction or limitation of any of the powers now permitted to such companies; provided, however, life, health, or accident insurance companies operating under Chapter 3 of this Code<sup>1</sup> shall not utilize the provisions of this Article but shall comply with the provisions of Chapter 3 of this Code as amended. As amended Acts 1957, 55th Leg., p. 87, ch. 41, § 1; Acts 1961, 57th Leg., p. 1112, ch. 503, § 1.

<sup>1</sup> Article 3.01 et seq.

Emergency. Effective June 17, 1961.

**Sec. 5. Certificate Covering Shares of Nominal or No Par Value Sold or Issued.** In the event all of the shares of stock without nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares of stock without nominal or par value are sold and issued, the company shall file with the Board, within ninety (90) days after the issuance of such shares a certificate authenticated by a majority of the directors setting forth the number of such shares so issued and the actual consideration received by the company for such shares. That portion of the consideration received by the company for such shares and fixed by the Board of Directors, unless the charter or articles of incorporation reserve to the shareholders the right to fix the consideration, shall constitute capital, and the excess, if any, of such consideration shall constitute surplus. No further action on the part of the company and no charter amendment shall be necessary to effect the increase in capital or surplus, or both, of the company. The consideration received for such shares shall be the same as that required by Article 2.03, Section 5 of this Code. As amended Acts 1961, 57th Leg., p. 1112, ch. 503, § 1a.

Emergency. Effective June 17, 1961.

Section 2 of the amendatory Act of 1961 amended art. 3.07a. Section 3 repealed all inconsistent laws and parts of laws and

provided that the act should prevail over any conflicting provisions of law. Section 4 contained a severability clause.

#### Art. 208.<sup>1</sup> Items of Minimum Capital Stock and Minimum Surplus

The minimum capital stock and minimum surplus of any such insurance company, except any writing life, health and accident insurance shall, following incorporation and granting of certificate of authority, consist only of the following:

1. Lawful money of the United States; or
2. Bonds of this state; or
3. Bonds or other evidences of indebtedness of the United States of America or any of its agencies when such obligations are guaranteed as to principal and interest by the United States of America; or
4. Notes secured by first mortgages upon unencumbered real estate in this state, the title to which is valid, and the payment of which notes is insured, in whole or in part, by the United States of America or any of its agencies, provided that such investments in such notes shall not

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exceed one-half ( $\frac{1}{2}$ ) of the minimum capital stock and minimum surplus of the investing company; or

5. Bonds or other interest-bearing evidences of indebtedness of any counties, cities or other municipalities of this state. As amended Acts 1955, 54th Leg., p. 413, ch. 117, § 9; Acts 1959, 56th Leg., p. 250, ch. 145, § 1; Acts 1961, 57th Leg., p. 979, ch. 426, § 1.

<sup>1</sup> Probably should read art. 2.08.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 2.10. Investment of Funds in Excess of Minimum Capital and Minimum Surplus

No company except any writing life, health and accident insurance, organized under the laws of this state, shall invest its funds over and above its minimum capital and its minimum surplus, as provided in Article 2.02, except as otherwise provided in this Code, in any other manner than as follows:

1. As provided for the investment of its minimum capital and its minimum surplus in Article 2.08;

2. In bonds or other evidences of debt which at the time of purchase are interest-bearing and are issued by authority of law and are not in default as to principal or interest, of any of the States of the United States or in the stock of any National Bank, in stock of any State Bank of Texas whose deposits are insured by the Federal Deposit Insurance Corporation; provided, however, that if said funds are invested in the stock of a State Bank of Texas that not more than thirty-five per cent (35%) of the total outstanding stock of any one (1) State Bank of Texas may be so purchased by any one (1) insurance company; and provided further, that neither the insurance company whose funds are invested in said bank stock nor any other insurance company may invest its funds in the remaining stock of any such State Bank;

3. In bonds or first liens or first mortgages upon unencumbered<sup>1</sup> real estate in this state or in any other state, country or province in which such company may be duly licensed to conduct an insurance business, the title to which is valid and the market value of which is not less than forty per cent (40%) more than the amount loaned thereon. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for at least sixty per cent (60%) of the value thereof provided that the insurance coverage need not exceed the outstanding balance owed to the lending company when the outstanding balance falls below sixty per cent (60%) of the value of the buildings, the loss clause shall be payable to such company. The provisions of this paragraph with respect to the value of real estate compared to the amount loaned thereon shall not apply to loans secured by real estate which are insured by the Federal Housing Administrator or successors. The valuation of such real estate where the loan is not insured by the Federal Housing Administrator shall be by appraisal by two (2) or more competent and disinterested citizens of Texas appointed by the Board of Insurance Commissioners of Texas, the cost and expense of such appraisal to be paid by the insurance company to the Board, as amended Acts 1959, 56th Legislature, page 96, Chapter 49, Section 1.

4. In bonds or other interest-bearing evidences of debt of any county, municipality, road district, turnpike district or authority, water district, any subdivision of a county, incorporated city, town, school district, sanitary or navigation district, any municipally owned revenue water system

or sewer system where special revenues to meet the principal and interest payments of such municipally owned revenue water system and sewer system bonds or other evidences of debt shall have been appropriated, pledged or otherwise provided for by such municipality. Provided, before bonds or other evidences of debt of navigation districts shall be eligible investments such navigation district shall be located in whole or in part in a county containing a population of not less than 100,000 according to the last preceding Federal Census; and provided further, that the interest due on such navigation bonds or other evidences of debt of navigation districts must never have been defaulted;

5. In the stocks, bonds, debentures, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation at time of purchase, incorporated under the laws of this state, or of any other State of the United States, or of the United States, which has not defaulted in the payment of any of its obligations for a period of five (5) years, immediately preceding the date of the investment; provided such funds may not be invested in the stock of any oil, manufacturing or mercantile corporation organized under the laws of this state, unless such corporation has at the time of investment a net worth of not less than \$250,000.00 nor in the stock of any oil, manufacturing or mercantile corporation, not organized under the laws of this state, unless such corporation has a combined capital, surplus and undivided profits of not less than \$2,500,000.00; provided further:

(a) Any such insurance company may invest its funds over and above its minimum capital stock, its minimum surplus, and all reserves required by law, in the stocks, bonds or debentures of any solvent corporation organized under the laws of this state, or of any other State of the United States, or of the United States.

(b) No such insurance company shall invest any of its funds in its own stock or in any stock on account of which the holders or owners thereof may, in any event, be or become liable to any assessment, except for taxes.

(c) No such insurance company shall invest any of its funds in stocks, bonds or other securities issued by a corporation if a majority of the stock having voting powers of such issuing corporation is owned, directly or indirectly, by or for the benefit of one or more officers or directors of such insurance company; provided, however, that this Section shall not apply to any insurance company which has been in continuous operation for five (5) years.

6. In loans upon the pledge of any mortgage, stock, bonds or other evidence of indebtedness acceptable as investments under the terms of this Article, if the current value of such mortgage, stock, bonds or other evidence of indebtedness is at least twenty-five per cent (25%) more than the amount loaned thereon;

7. In interest-bearing notes or bonds of The University of Texas issued under and by virtue of Chapter 40, Acts of the 43rd Legislature, Second Called Session; <sup>2</sup>

8. In real estate to the extent only as elsewhere authorized by this Code;

9. In insured accounts and evidences of indebtedness as defined and limited by Section 1, Chapter 618, page 1356, Acts of the 47th Legislature; <sup>3</sup> in shares or share accounts as authorized in Section 1, page 76, Acts 1939, 46th Legislature; <sup>4</sup> in insured or guaranteed obligations as authorized in Chapter 230, page 315, Acts 1945, 49th Legislature; <sup>5</sup> in bonds issued under the provisions authorized by Section 9, Chapter 231, page 774, Acts

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1933, 43rd Legislature; <sup>6</sup> in bonds under authority of Section 1, Chapter 1, page 427, Acts 1939, 46th Legislature; <sup>7</sup> in bonds and other indebtedness as authorized in Section 1, Chapter 3, page 494, Acts 1939, 46th Legislature; <sup>8</sup> in "Municipal Bonds" issued under and by virtue of Chapter 280, Acts 1929, 41st Legislature; <sup>9</sup> or in bonds as authorized by Section 5, Chapter 122, page 219, Acts 1949, 51st Legislature; <sup>10</sup> or in bonds as authorized by Section 10, Chapter 159, page 326, Acts 1949, 51st Legislature; <sup>11</sup> or in bonds as authorized by Section 19, Chapter 340, page 655, Acts 1949, 51st Legislature; <sup>12</sup> or in bonds as authorized by Section 10, Chapter 398, page 737, Acts 1949, 51st Legislature; <sup>13</sup> or in bonds as authorized by Section 18, Chapter 465, page 855, Acts 1949, 51st Legislature; <sup>14</sup> or in shares or share accounts authorized in Chapter 534, page 966, Acts 1949, 51st Legislature; <sup>15</sup> or in bonds as authorized by Section 24, Chapter 110, page 193, Acts 1949, 51st Legislature; <sup>16</sup> together with such other investments as are now or may hereafter be specifically authorized by law. As amended Acts 1955, 54th Legislature, p. 413, ch. 117, § 10; Acts 1959, 56th Leg., p. 96, ch. 49, § 1; Acts 1961, 57th Leg., p. 979, ch. 426, § 2.

<sup>1</sup> So in enrolled bill.

<sup>2</sup> Vernon's Ann.Civ.St. art. 2603d.

<sup>3</sup> Vernon's Ann.Civ.St. art. 842a.

<sup>4</sup> Vernon's Ann.Civ.St. art. 881a—24.

<sup>5</sup> Vernon's Ann.Civ.St. art. 324a—1.

<sup>6</sup> Vernon's Ann.Civ.St. art. 1187a, § 9.

<sup>7</sup> Vernon's Ann.Civ.St. art. 1269k—1.

<sup>8</sup> Vernon's Ann.Civ.St. art. 5890c.

<sup>9</sup> Vernon's Ann.Civ.St. art. 7880—19a.

<sup>10</sup> Vernon's Ann.Civ.St. art. 6795b—1, § 7b.

<sup>11</sup> Vernon's Ann.Civ.St. art. 8280—134, § 10.

<sup>12</sup> Vernon's Ann.Civ.St. art. 8280—137, § 19.

<sup>13</sup> Vernon's Ann.Civ.St. art. 8280—138, § 10.

<sup>14</sup> Vernon's Ann.Civ.St. art. 8280—139, § 18.

<sup>15</sup> Vernon's Ann.Civ.St. art. 881a—24.

<sup>16</sup> Vernon's Ann.Civ.St. art. 8280—133, § 24.

Effective 90 days after May 29, 1961, date of adjournment.

## Art. 2.11. Directors

The affairs of any insurance companies organized under the laws of this state shall be managed by not fewer than seven (7) directors, all of whom shall be stockholders in the company. Within thirty (30) days after the subscription books of the company have been filed, a majority of the stockholders shall hold a meeting for the election of directors, each share entitling the holder thereof to one (1) vote. The directors then in office shall continue in office until their successors have been duly chosen and accepted the trust. The annual meeting for the election of directors of any such company shall be held not later than the second Tuesday in March as the bylaws of the company may direct. As amended Acts 1961, 57th Leg., p. 440, ch. 214, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT  
INSURANCESUBCHAPTER C. RESERVES AND  
INVESTMENTS

Art.

3.39a. Life insurance company prohibited from subscribing to or underwriting purchase or sale of securities or property [New].

## SUBCHAPTER A. TERMS DEFINED; DOMESTIC COMPANIES

## Art. 3.01. Terms Defined

Section 1. A life insurance company shall be deemed to be a corporation doing business under any charter involving the payment of money or other thing of value, conditioned on the continuance or cessation of human life, or involving an insurance, guaranty, contract or pledge for the payment of endowments or annuities.

Sec. 2. An accident insurance company shall be deemed to be a corporation doing business under any charter involving the payment of money or other thing of value, conditioned upon the injury, disablement or death of persons resulting from traveling or general accidents by land or water.

Sec. 3. A health insurance company shall be deemed to be a corporation doing business under any charter involving the payment of any amount of money, or other thing of value, conditioned upon loss by reason of disability due to sickness or ill-health.

Sec. 4. When consistent with the context and not obviously used in a different sense, the term "company," or "insurance company," as used herein, includes all corporations engaged as principals in the business of life, accident or health insurance.

Sec. 5. The term "domestic" company, as used herein, designates those life, accident or life and accident, health and accident, or life, health and accident insurance companies incorporated and formed in this State.

Sec. 6. The term "foreign company" means any life, accident or health insurance company organized under the laws of any other state or territory of the United States or foreign country.

Sec. 7. The term "home office" of a company means its principal office within the state or country in which it is incorporated and formed.

Sec. 8. The "insured" or "policyholder" is the person on whose life a policy of insurance is effected.

Sec. 9. The "beneficiary" is the person to whom a policy of insurance effected is payable.

Sec. 10. By the term "net assets" is meant the funds of the company available for the payment of its obligations in this State, including but not limited to,

(a) uncollected premiums not more than three (3) months past due and deferred premiums on policies actually in force, after deducting from such funds all unpaid losses and claims and claims for losses, and all other debts, exclusive of capital stock, and

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(b) electronic machines constituting a data processing system or systems heretofore or hereafter purchased for use in connection with the business of an insurance company, if the cost of such system is at least Twenty-five Thousand Dollars (\$25,000), which cost shall be amortized in full over a period not to exceed ten (10) years; provided that the Commissioner of Insurance may adopt regulations defining such electronic data processing systems.

Sec. 11. The "profits" of a company are that portion of its funds not required for the payment of losses and expenses, nor set apart for any other purpose required by law. As amended Acts 1961, 57th Leg., p. 1056, ch. 470, § 1.

Emergency. Effective June 16, 1961.

**Art. 3.02a. Shares of Stock**

(a) The shares of any life, health or accident insurance company organized or operating under the provisions of this Chapter may be divided or converted into shares of either par value or no par value, or some of each, and all issued shares shall be fully paid and nonassessable. If divided or converted into shares of par value, each share shall be for not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100) and the stockholders of any such company authorizing the issuance of its stock with a nominal or par value shall be required in good faith to subscribe and fully pay for shares representing at least fifty per cent (50%) of the aggregate par value of the shares authorized to be issued with a nominal par value before said company shall be chartered or have its charter amended so as to authorize the issuance of shares with a nominal or par value. At the time of filing of an original charter or any amendment of an existing charter authorizing the issuance of stock with a nominal or par value, the company shall file a statement under oath with the State Board of Insurance setting forth the aggregate number of shares with a nominal or par value subscribed and the actual aggregate consideration received by the company for such shares. If divided or converted into shares of no par value, every such share shall be equal in all respects to every other such share. At the time of filing of an original charter or any amendment of an existing charter authorizing the issuance of stock with no par value, the company shall file a statement under oath with the State Board of Insurance setting forth the number of shares without par value subscribed and the actual consideration received by the company for such shares. Provided, however, that the stockholders of any such company authorizing the issuance of its stock without nominal or par value, shall be required in good faith to subscribe and pay for at least fifty per cent (50%) of the authorized shares to be issued without nominal or par value, before said corporation shall be chartered or have its charter amended so as to authorize the issuance of shares without nominal or par value; and provided further, that in no event shall the amount so paid be less than Two Hundred Fifty Thousand Dollars (\$250,000). The aggregate number of shares which the company has authority to issue may be increased or decreased from time to time by lawful charter amendment so long as at least fifty per cent (50%) of the aggregate number of the authorized shares to be issued without nominal or par value is in good faith subscribed and paid for and so long as shares representing at least fifty per cent (50%) of the aggregate par value of the shares authorized to be issued with a nominal or par value has been in good faith subscribed and paid for in full; provided that authorized but unissued shares shall not constitute capital or stock or capital stock of such company.



(b) Such companies may issue and dispose of their authorized shares having no nominal or par value for money or those notes, mortgages and stocks of which the law requires that capital stock of insurance companies shall consist. Any and all shares without nominal or par value issued for the consideration prescribed or fixed in accordance with the provisions of this Article shall be fully paid stock and not liable to any further call or assessment thereon, nor shall the subscriber or holder be liable for any further payments. The consideration received for shares with a nominal or par value shall constitute capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute surplus. In the case of issuance of shares without a nominal or par value, that portion of the consideration fixed by the Board of Directors, unless the charter or the articles of incorporation reserve to the shareholders the right to fix the consideration, shall constitute capital and the excess, if any, of such consideration shall constitute surplus. All shares with a nominal or par value issued by the company shall be fully paid for prior to issuance at a rate of not less than the par value thereof. In no event shall the capital or surplus be less than the minimum required by this Chapter.

(c) In the event all of the shares without nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares without nominal or par value are sold and issued, the company shall file with the State Board of Insurance within ninety (90) days after the issuance of such shares, a certificate authenticated by a majority of the directors setting forth the number of such shares so issued and the actual consideration received by the company for such shares. In the event all of the shares with a nominal or par value, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares with a nominal or par value are sold and issued, the company shall file with the Board, within ninety (90) days after the issuance of such shares, a certificate authenticated by a majority of the directors setting forth the aggregate number of shares so issued and the actual aggregate consideration received by the company for such shares. In the case of the issuance by a company of any of its authorized shares having a nominal or par value, the consideration received therefor shall constitute capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute surplus. In case of the issuance by a company of any of its authorized shares without a nominal or par value, that portion of the consideration fixed by the Board of Directors, unless the charter or articles of incorporation of the company reserve to the shareholders the right to fix the consideration, shall constitute capital, and the excess, if any, shall constitute surplus. All shares with a nominal or par value issued by the company shall be fully paid for prior to issuance at a rate of not less than the par value thereof. No further action on the part of the company and no charter amendment shall be necessary to effect the increase in capital or surplus, or both, of the company.

(d) Nothing herein contained shall be construed to impair the charter rights of companies heretofore authorized to issue stock of no par value or par value. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 3.02a added Acts 1955, 54th Leg., p. 916, ch. 363, § 4, as amended Acts 1961, 57th Leg., p. 1112, ch. 503, § 2.

Emergency. Effective June 17, 1961.

**Art. 3.10. May Reinsure**

Any domestic company may reinsure in any insurance company licensed to transact business in any state or district of the United States, any risk or part of a risk which it may assume; provided, however, no credit for the reserve liability on such reinsurance may be taken by the ceding company unless the assuming insurer is licensed to do business in this state and, provided further, no company operating under Section 2(a) of Article 3.02 shall reinsure any risk or part of a risk with any insurer which is not licensed to do business in this state. No such company shall have the power to reinsure its entire outstanding business unless the assuming insurer is licensed in this state and until the contract therefor shall be submitted to the Commissioner of Insurance of Texas and approved by him as protecting fully the interests of all policyholders. As amended Acts 1961, 57th Leg., p. 447, ch. 220, § 1.

Emergency. Effective May 25, 1961.

**Art. 3.13. Disbursement by Vouchers**

Stipulated premium insurance companies,  
see art. 22.18.

**Art. 3.16. Deposits of Securities in Amount of Legal Reserve**

Section 1. Any life insurance company now or which may hereafter be incorporated under the laws of this State may deposit with the State Board of Insurance for the common benefit of all the holders of its policies and annuity bonds, securities of the kinds in which, by the laws of this State, it is permitted to invest or loan its capital, surplus and/or reserves, equal to the legal reserve on all its outstanding policies in force, which securities shall be held by said State Board of Insurance in trust for the purpose and objects herein specified. The physical delivery of such securities to the State Board of Insurance shall be sufficient without being accompanied by a written transfer of any lien securing them. Any such company may deposit lawful money of the United States in lieu of the securities above referred to, or any portion thereof, and may also, for the purposes of such deposit, convey to said State Board of Insurance in trust the real estate in which any portion of its said reserve may be lawfully invested. In such case, the State Board of Insurance shall hold the title thereto in trust until other securities in lieu thereof shall be deposited with it, whereupon it shall reconvey the same to such company. Said State Board of Insurance may cause any such securities or real estate to be appraised and valued prior to their being deposited with or conveyed to it, in trust as aforesaid; the reasonable expense of such appraisal or valuation to be paid by the company. Under the provisions of this Article, registered as well as unregistered United States Government securities may be deposited.

Sec. 2. Notwithstanding the provisions of Section 1, of this Article, no new deposit of securities will be lawful after the effective date of this Section, except to the extent expressly required by Article 3.17.

Sec. 3. For the purpose of state, county, and municipal taxation the situs of securities deposited with the State Board of Insurance shall be in the city and county where the principal business office of such company is fixed by its charter. As amended Acts 1957, 55th Leg., p. 812, ch. 344, § 2; Acts 1961, 57th Leg., p. 1053, ch. 469, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Sections 2 and 3 of the amendatory Act of 1961 amended art. 3.17, 3.18. Section 4

repealed art. 3.19. Section 5 repealed all inconsistent laws and parts of laws to the extent of such conflict and section 6 contained a severability clause.

**Art. 3.17. What Deposits May Include**

Section 1. Any life insurance company which has heretofore issued or assumed the obligations of policies or annuity bonds which have been registered in the manner at any time authorized by this Chapter, shall at all times hereafter have on deposit with the State Board of Insurance securities of the character described in Article 3.16 in amounts equal to or in excess of the aggregate net value of such outstanding registered policies and annuity bonds in force, and for such purpose new and additional deposits of securities shall be made from time to time and in amounts of not less than Five Thousand Dollars (\$5,000). Any such company whose deposits exceed such aggregate net value of its outstanding registered policies and annuity bonds in force may from time to time withdraw such excess by withdrawals of not less than Five Thousand Dollars (\$5,000). Any such company may at any time withdraw any of its deposited securities by depositing in their stead others of equal value and of the character authorized by this Chapter, and may collect the interest, rents and other income from its securities on deposit. The net value of every policy or annuity bond subject to this Act shall be its value according to the standard prescribed by the laws of this State, when the first premium thereon has been paid, less the amount of such liens as the company may have against it not in excess of such value.

Sec. 2. The securities of any such company on deposit with the State Board of Insurance shall be held in trust by said board for the benefit of all of the holders of the outstanding policies and annuity bonds of such company which have been registered pursuant to this Chapter.

Sec. 3. No company which has outstanding registered policies or annuity bonds in force shall reinsure its outstanding registered business, or the whole of any one or more of its registered policies or annuity bonds, except in a company or companies incorporated and organized under the laws of this State or having permission to do business in this State. As amended Acts 1961, 57th Leg., p. 1053, ch. 469, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 3.18. Effect and Value of Deposits in Amount of Legal Reserve**

Section 1. After the effective date of this Section 1, of this Article, no policy or annuity bond shall be registered in the manner heretofore authorized by this Chapter.

Sec. 2. Every life insurance company which is required by this Chapter to have securities on deposit with the State Board of Insurance shall keep records of all of its outstanding registered policies and annuity bonds in force, and of the net value thereof.

Sec. 3. Each life insurance company which is required by this Chapter to have securities on deposit with the State Board of Insurance shall, within fifteen (15) days after the termination of each calendar month, file with said Board a report stating whether or not the value of its securities on deposit is equal to or in excess of the aggregate value of its registered policies and annuity bonds outstanding and in force at the end of such preceding calendar month.

Sec. 4. The securities deposited under this Chapter by each company shall be placed and kept by the State Board of Insurance in some secure safe-deposit, fireproof box or vault in the city or town in or near where the home office of the company is located. The officers of the company shall have access to such securities for the purpose of detaching interest.

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coupons and crediting payment and exchanging securities as above provided; under such reasonable rules and regulations as the State Board of Insurance may establish. As amended Acts 1961, 57th Leg., p. 1053, ch. 469, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

Art. 3.19. Repealed. Acts 1961, 57th Leg., p. 1053, ch. 469, § 4. Eff. 90 days after May 29, 1961, date of adjournment

### SUBCHAPTER C. RESERVES AND INVESTMENTS

#### Art. 3.34. Texas Securities

The term "Texas Securities," as used in this Chapter, shall be held to include the following:

#### PART I. INVESTMENTS.

##### 1. U. S. Bonds and Obligations.

That percentage of a life insurance company's investments in the bonds, treasury bills, notes and certificates of indebtedness of the United States and other obligations and securities fully guaranteed as to principal and interest by the full faith and credit of the United States (exclusive of obligations of the United States or any agency or instrumentality thereof specifically included for the full amount thereof under Paragraphs 6 and 7 of this Part I) that its Texas Reserves bear to its total reserves.

##### 2. State Bonds.

Bonds of the State of Texas.

##### 3. County, City, School District and other Subdivision Bonds.

Bonds and interest-bearing warrants issued by authority of law by any county, city, town, school district, or other municipality or subdivision of the State of Texas which is now or hereafter may be constituted or organized under the laws of this state, and is authorized to issue such bonds and warrants under the Constitution and laws of this state.

##### 4. Bonds of Educational Institutions.

Bonds and interest-bearing warrants issued by authority of law by any educational institution of the State of Texas which is now or hereafter may be constituted or organized under the laws of this state, and is authorized to issue such bonds and warrants under the Constitution and laws of this state, provided legal provision has been made by a tax to meet said obligations.

##### 5. Special Obligations of Educational Institutions.

Bonds and warrants, including revenue and special obligations, of any educational institution of the State of Texas when special revenue or income to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged, or otherwise provided by such educational institution.

##### 6. Bonds in Settlement of Insured or Guaranteed Loans.

Bonds, debentures and other evidences of indebtedness of the United States or any agency or instrumentality thereof, or the State of Texas or any agency or instrumentality thereof, received and retained in whole

or partial settlement of any insurance or guarantee in whole or in part by the United States or any agency or instrumentality thereof, or by the State of Texas or any agency or instrumentality thereof, of notes or bonds secured by mortgage or deed of trust upon real estate situated in this state.

#### 7. Federal Farm Loan Bonds.

Bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,<sup>1</sup> where such bonds are issued against and secured by promissory notes or other obligations, the payment of which is secured by mortgage, deed of trust, or other valid lien upon unencumbered real estate situated in this state.

#### 8. Corporate First Mortgage Bonds and Debentures.

First mortgage bonds and first lien notes on real estate or personal property of any solvent corporation incorporated under the laws of this state and doing business in this state which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation incorporated under the laws of this state and doing business in this state which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; and the debentures of any such corporation incorporated under the laws of this state with a capital stock of not less than Five Million Dollars (\$5,000,000) where no prior lien exists, or, under the provisions of the indenture providing for the issuance of such debentures, can be created against the real or personal property owned by such corporation at the time the debentures were issued; but in no event shall the amount of such investment in the bonds or debentures of any such corporation exceed five per cent (5%) of the admitted assets of the insurance company making the investment.

#### 9. Securities of Electric or Gas Public Utility Corporations.

Such debentures, preferred stock and common stock of any (a) solvent electric or gas public utility corporation, incorporated under the laws of and doing business in this state which derives at least eighty-five per cent (85%) of its gross income from the sale of electricity or gas; or (b) other corporation, incorporated under the laws of and doing business in this state, the principal assets of which are the common stock of subsidiaries which are solvent electric or gas public utility corporations from which it derives at least eighty-five per cent (85%) of its gross income, as are authorized investments under the provisions of Article 3.39 and 3.41 respectively, of the Insurance Code of this state, as amended.

### PART II. LOANS

#### 1. First Liens upon Real Estate.

First lien notes or first mortgage bonds secured by real estate situated in this state, the title to which is valid and the value of which is at least one-third ( $\frac{1}{3}$ ) more than the amount loaned thereon.

#### 2. First Liens upon Leasehold Estates.

First lien notes or first mortgage bonds secured by leasehold estates in real property and improvements thereon situated in this state, the title to which is valid; provided that the duration of any loan upon such leasehold estates shall not exceed a period equal to four-fifths ( $\frac{4}{5}$ ) of the then

unexpired term of such leasehold estate; provided the unexpired term of the leasehold estate must extend at least ten (10) years beyond the term of the loan, and any such loan shall be payable only in equal monthly, quarterly, semi-annual or annual installments, on principal or principal and interest during a period not exceeding four-fifths ( $\frac{4}{5}$ ) of the then unexpired term of such leasehold estate.

3. Collateral Liens upon Real Estate.

Obligations secured collaterally by first mortgage liens or first deed of trust liens against any such first liens on real estate or leasehold estates situated in this state.

4. Insured or Guaranteed Liens upon Real Estate.

The foregoing restrictions as to the value of the real estate security compared to the amount loaned thereon and as to the duration and dignity of such loans shall not be applied to loans if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States, or by the State of Texas or by any agency or instrumentality of either of them, or if not wholly so insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States, or by the State of Texas or by any agency or instrumentality of either of them would not exceed the amount of loan permissible under said restrictions.

5. Policy Loans.

Loans made to policyholders on the sole security of the reserve values of their policies.

6. Insurance Requirements.

If any part of the value of buildings is required to be included in the value of such real estate to attain the minimum authorized value of the security, such buildings shall be insured against loss by fire in a company authorized to transact business in the State of Texas for at least fifty per cent (50%) of the value thereof; provided, that the insurance coverage need not exceed the outstanding balance owed to the lending company when the outstanding balance falls below fifty per cent (50%) of the value of the buildings. The loss clause shall be payable to such company.

7. Collateral Liens upon other Texas Securities.

Obligations collaterally secured by first mortgage liens or first deed of trust liens against any of the securities named or referred to in Part I or Part IV hereof as constituting investments in Texas Securities.

### PART III. REAL ESTATE.

All real estate situated in this state now owned and held and all real estate situated in this state hereafter acquired, owned and held by such insurance company in accordance with the provisions of this Chapter to the extent of its reasonable market value.

### PART IV. MISCELLANEOUS.

1. Bank Deposits.

The cash deposits in regularly established national or state banks or trust companies in this state on the basis of average monthly balances throughout the calendar year.

## 2. Texas Securities under Special Acts.

The securities, insured accounts and evidences of indebtedness which are defined as "Texas Securities" under Article 842a and 881a-24 of the Revised Civil Statutes of Texas.

## 3. Other Texas Securities Specifically Defined by Law.

Such other securities, loans and investments as are now or may hereafter be specifically defined by law as "Texas Securities" for purposes of this Chapter. As amended Acts 1953, 53rd Leg., p. 403, ch. 115, § 1; Acts 1959, 56th Leg., p. 96, ch. 49, § 2; Acts 1959, 56th Leg., p. 626, ch. 282, § 1; Acts 1961, 57th Leg., p. 933, ch. 411, § 1.

<sup>1</sup> 12 U.S.C.A. § 641 et seq.

Effective 90 days after May 29, 1961, date of adjournment.

This article was also amended by Acts 1961, 57th Leg., p. 316, ch. 168, § 1, effective May 17, 1961, but the amendment was expressly repealed by Acts 1961, 57th Leg., p. 933, ch. 411, § 2a.

Section 2 of the amendatory Act of 1953 repealed conflicting laws and parts of laws to the extent of the conflict, and provided that partial invalidity should not impair any remaining sections or provisions of the Act.

### Art. 3.39. Authorized Investments and Loans for "Domestic" Life Insurance Companies

#### PART I. AUTHORIZED INVESTMENTS

A life insurance company organized under the laws of this state may invest its several funds, identified as follows, in the following securities, respectively, and none other:

##### A. ANY OF ITS FUNDS AND ACCUMULATIONS

## 1. U. S. Bonds and Obligations Guaranteed by the United States.

The bonds, treasury bills, notes and certificates of indebtedness of the United States or any other obligation or security fully guaranteed as to principal and interest by the full faith and credit of the United States.

## 2. Canadian Bonds.

The bonds of the Dominion of Canada or any province or city of the Dominion of Canada.

## 3. State, County and City Bonds.

The bonds of any state, county, or city of the United States.

## 4. County, City and School District Bonds.

Any bonds, or interest-bearing warrants issued by authority of law by any county, city, town, school district, or other municipality or subdivision of the State of Texas which is now or hereafter may be constituted or organized under the laws of this state and is authorized to issue such bonds and warrants under the Constitution and laws of this state, provided legal provision has been made by a tax to meet said obligations.

## 5. Bonds of Educational Institutions.

Any bonds or interest-bearing warrants issued by authority of law by any educational institution of the State of Texas which is now or hereafter may be constituted or organized under the laws of this state and is authorized to issue such bonds and warrants under the Constitution and laws of this state, provided legal provision has been made by a tax to meet said obligations.

**6. Revenue Bonds, etc., of Educational Institutions.**

The bonds and warrants, including revenue and special obligations, of any educational institution of the State of Texas when special revenue, or income to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged, or otherwise provided by such educational institution.

**7. Bonds and Warrants of municipally owned Water and Sewer Systems.**

The bonds and warrants of any municipally owned water system or sewer system where special revenues, or income to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged, or otherwise provided by such municipality.

**8. Paving Certificates.**

Any paving certificates issued by any city in the State of Texas and secured by a first lien on real estate.

**9. Bonds issued under Federal Farm Loan Act.**

Bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916 (12 U.S.C.A. Sec. 641 et seq.), when such bonds are issued against and secured by promissory notes, or obligations, the payment of which is secured by mortgage, deed of trust, or other valid lien upon unincumbered real estate situated in this state.

**10. Corporate First Mortgage Bonds and Debentures.**

First mortgage bonds on real estate or personal property of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; or in the debentures of any such corporation with a capital stock of not less than Five Million Dollars (\$5,000,000) where no prior lien exists, or, under the provisions of the indenture providing for the issuance of such debentures, no such prior lien can be created against the real or personal property owned by such corporation at the time the debentures were issued; but in no event shall the amount of such investment in the bonds or debentures of any one such corporation exceed five per cent (5%) of the admitted assets of the insurance company making the investment.

**11. Shares of Building & Loan and Savings & Loan Associations.**

The shares or share accounts of Building & Loan Associations and Savings & Loan Associations doing business in this state, where such shares are insured under and by virtue of the Federal Savings & Loan Insurance Corporation; no such investment shall exceed twenty per cent (20%) of the total outstanding shares of any such individual Building & Loan Association or Savings & Loan Association.

**12. Bank Stocks.**

The stock of banks, either state or national, that are members of the Federal Deposit Insurance Corporation; no such investment shall exceed twenty per cent (20%) of the total outstanding shares of the stock of such bank.



## 13. Debentures of Public Utility Corporations.

The debentures of any solvent public utility corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment provided such corporation has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and public utility corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; provided further, that such public utility corporation shall not have failed in any one of the five (5) years next preceding such investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation and obsolescence, a sum applicable to interest on its outstanding indebtedness equal at least to three times the amount of interest due for that year, or where, in the case of issuance of new debentures, such earnings applicable to interest are equal to at least three times the amount of annual interest on such public utility corporation's obligations after giving effect to such new financing; or, in the case of a public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment but has succeeded to the business and assets and has assumed the liabilities of another such corporation, and which public utility corporation and the public utility corporation so succeeded have not failed in any one of the five (5) years next preceding such investment to have earned, after taxes, including income taxes, and after deducting proper charges for replacements, depreciation and obsolescence, a sum applicable to interest on the outstanding indebtedness equal to at least three times the amount of interest due for that year, to where in the case of issuance of new debentures such earnings applicable to interest are equal to at least three times the amount of annual interest on such public utility corporation's obligations after giving effect to such new financing; but in no event shall the amount of such investment in debentures under this Subdivision exceed five per cent (5%) of the admitted assets of the insurance company making the investment.

## 14. Preferred Stock of Public Utility Corporations.

The preferred stock of any solvent public utility corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which public utility corporation and the public utility corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; provided further, that such public utility corporation shall not have failed in any one of the five (5) years next preceding such investment to have earned a sum applicable to dividends on such preferred stock equal to at least three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock such earnings applicable to dividends are equal at least to three times the amount of the annual dividend requirements after giving effect to such new financing, and where the bonds and debentures are eligible investments for such insurance company; or, in the case of a public utility corporation which has not been in existence for five (5) consecutive years next preceding such investment, but has succeeded to the business and assets and has assumed the liabilities of another such corpo-

ration, and which public utility corporation and the public utility corporation so succeeded have not failed in any one of the five (5) years next preceding such investment to have earned a sum applicable to the dividends on such preferred stock equal to at least three times the amount of dividends due in that year, or, in the case of issuance of new preferred stock, such earnings applicable to dividends are equal at least to three times the amount of the annual dividend requirements after giving effect to such new financing, and where the bonds and debentures are eligible investments for such insurance company; provided that any preferred stock so purchased shall be of an issue which is entitled to first claim upon the net earnings of such public utility corporation after deducting such sum as may be necessary to service any outstanding bonds and debentures, but in no event shall the amount of such investment in preferred stock under this Subdivision exceed two and one-half per cent (2½%) of the admitted assets of the insurance company making the investment.

15. Other Securities approved by State Board of Insurance.

"Any such company may also invest its funds and accumulations in or upon any other securities, provided such securities are approved by the State Board of Insurance as being substantially of equal grade and quality as those securities in which such company is or may be authorized to invest any of its funds and accumulations; and provided further, that in no event shall the aggregate amount of such investments under this Subdivision exceed the lesser of the following:

(a) Five per cent (5%) of the admitted assets of the insurance company making the investment; or

(b) The total value of such company's surplus and contingency funds over and above its policy reserves.

16. Securities Authorized by Special Acts of the Legislature.

Securities authorized under Articles: 842a; 842a—1; 881a—24; 1187a; 5890c; 6795b—1; 7880—19a; 8247a; 8280—133; 8280—134; 8280—137; 8280—138; and 8280—139 of the Revised Civil Statutes of Texas.

17. Other Securities Specifically Authorized by Law.

Such other securities as are now or may hereafter be specifically authorized by law.

B. POLICY RESERVES AND SURPLUS

1. Specified Municipal Bonds.

It may invest its policy reserves and surplus over and above its capital in "Municipal Bonds" issued under and by virtue of Chapter 280, Acts 1929, 41st Legislature.<sup>1</sup>

<sup>1</sup> Vernon's Ann.Civ.St. art. 7880—3 et seq.

C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND ABOVE POLICY RESERVES

It may invest its capital, surplus and contingency funds over and above the amount of its policy reserves in the following securities:

1. Capital Stock, Bonds, and other Obligations of Corporations.

The capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided

such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment.

2. Bonds or Notes of Educational or Religious Corporations.

The bonds or notes of any educational or religious corporation where provision has been made for the payment of a sufficient amount of the first weekly or monthly revenues thereof to an interest and sinking fund account in a bank or trust company as an independent paying agent.

3. Limitation on Investments in Capital Stock.

It may not invest in its own capital stock nor more than ten per cent (10%) of the amount of its capital, surplus, and contingency funds in the stock of any one corporation, nor in the stock of any manufacturing corporation with a capital stock of less than Twenty-five Thousand Dollars (\$25,000) nor in the stock of any oil corporation with a capital stock of less than Five Hundred Thousand Dollars (\$500,000).

D. CAPITAL, SURPLUS AND CONTINGENCY FUNDS  
NOT TO EXCEED 10%

1. Capital Stock of Other Insurance Corporations.

It may invest not to exceed ten per cent (10%) of its capital, surplus, and contingency funds, in not more than twenty per cent (20%) of the capital stock of any other insurance company, now or hereafter organized under this Chapter, whose principal business is the reinsurance, either partially or wholly, of risks ceded to it by other life insurance companies. The investment herein authorized may be made by purchase of stock then issued and outstanding or by subscription to and payment for the increase in the capital stock of such reinsurance corporation.

E. MINIMUM CAPITAL AND SURPLUS

1. Requirement as to Investment of Minimum Capital and Surplus.

Notwithstanding other provisions of this Article 3.39 of this Code, the capital and surplus of a company hereafter organized under Article 3.02 of this Code and the free surplus of a company hereafter organized under Article 11.01 of this Code shall, at the time of incorporation, consist only of lawful money of the United States, or bonds of the United States, or of this state, or of any county or incorporated municipality thereof, or government insured mortgage loans which are otherwise authorized by this Chapter, and shall not include any real estate; provided, however, that fifty per cent (50%) of the minimum capital may be invested in first mortgage real estate loans; and the minimum capital of a company hereafter organized under said Article 3.02 and the minimum free surplus of a company hereafter organized under said Article 11.01 at all times shall be maintained in cash or in the same classes of investments. After the granting of charter the surplus in excess of such One Hundred Thousand Dollars (\$100,000) may be invested as otherwise provided in this Code for Stock Companies.

F. GENERAL

1. Investment in Foreign Securities.

Any such company legally authorized to transaction business in a foreign country may invest in the same kind of securities of said country as hereinbefore authorized in the United States of America for an aggregate amount not exceeding the reserve on the business in force in said country.

2. Investments to be Approved by Board of Directors.

No investment shall be made by any such insurance company, unless the same shall first have been authorized by the Board of Directors or by a committee charged with the duty of supervising such investments.

3. Investments of Companies Reinsured.

In any case in which a life insurance company organized under the laws of this state shall reinsure the business and take over the assets of another life insurance company, either domestic or foreign, all investments of such reinsured company that were authorized, when made, by the laws of the state in which it was organized, as proper securities for investment of the funds of a life insurance company, and which are taken over by such reinsuring company, shall be considered as valid securities of such reinsuring company under the laws of this state, provided such investments are approved by the Board of Insurance Commissioners of this state, and the same are taken over on terms satisfactory to said Board; and upon the condition that the Board of Insurance Commissioners shall have the power to require the reinsuring company to dispose of such investments upon such notice as it may deem reasonable.

4. Not to Invest in Stock Subject to Assessment.

No such insurance company shall invest any of its funds in any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes.

5. Certain Investment Privileges are Cumulative.

The investment powers conferred by Paragraphs Nos. 11 and 12, Section A, are in addition to those conferred by Paragraphs Nos. 1, 2 and 3, Section C, and are not to be construed as restricting the powers already granted by said Paragraphs Nos. 1, 2 and 3 of Section C and Paragraphs Nos. 11 and 12, Section A, and the powers conferred herein are cumulative with respect to Paragraphs Nos. 1, 2 and 3, Section C, and the powers conferred therein.

## PART II. AUTHORIZED LOANS

A life insurance company organized under the laws of this state may loan its several funds identified as follows, taking as collateral security for the payment of such loans the securities named below, and none other:

### A. ANY OF ITS FUNDS AND ACCUMULATIONS

Such company may loan any of its funds and accumulations on the following securities:

1. First Liens Upon Real Estate.

First liens upon real estate, the title to which is valid and the value of which is at least one-third more than the amount loaned thereon.

2. First Liens Upon Leasehold Estates.

First liens upon leasehold estates in real property and improvements situated thereon, the title to which is valid; provided that the duration of any loan upon such leasehold estates shall not exceed a period equal to four-fifths ( $\frac{4}{5}$ ) of the then unexpired term of such leasehold estate, provided the unexpired term of the leasehold estate must extend at least ten (10) years beyond the term of the loan, and any such loan shall be payable only in equal monthly, quarterly, semi-annual or annual installments, on principal and interest during a period not exceeding four-fifths ( $\frac{4}{5}$ ) of the then unexpired term of such leasehold estate.

### 3. Collateral Securities.

Upon any obligation secured collaterally by any such first liens on real estate or leasehold estates.

### 4. Policy Loans.

Security of its own policies. No loan on any policy shall exceed the reserve values thereof.

### 5. Other Securities.

It may loan any of its funds and accumulations, taking as collateral to secure the payment of such loan, any of the securities named or referred to in Part 1 of this Article 3.39 above in which it may invest any of its funds and accumulations.

### 6. Restrictions as to Value of Real Estate Removed Where Loans Insured by the United States.

The foregoing restrictions as to the value of the real estate security compared to the amount loaned thereon and as to the duration of such loans shall not be applied to loans if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States, the Federal Housing Administration pursuant to the National Housing Act of 1934, as amended (12 U.S.C.A. Sec. 1701 et seq.), or by the State of Texas, or, if not wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States, the Federal Housing Administration pursuant to the National Housing Act of 1934, as amended, or by the State of Texas, would not exceed the amount of loan permissible under said restrictions.

### 7. Loans to be Authorized by Board of Directors.

No loan, except policy loans, shall be made by any such insurance company unless the same shall first have been authorized by the Board of Directors or by a committee charged with the duty of supervising such loans.

### 8. Insurance Requirements.

If any part of the value of buildings is required to be included in the value of such real estate to attain the minimum authorized value of the security, such buildings shall be insured against loss by fire in a company authorized to transact business in the State of Texas for at least fifty per cent (50%) of the value thereof; provided, that the insurance coverage need not exceed the outstanding balance owed to the lending company when the outstanding balance falls below fifty per cent (50%) of the value of the buildings. The loss clause shall be payable to such company.

## B. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND ABOVE POLICY RESERVES

### 1. Capital Stock, Bonds, and other Obligations of Solvent Corporation, and Educational or Religious Corporations.

It may loan its capital, surplus and contingency funds, or any part thereof over and above the amount of its policy reserves, taking as security therefor the capital stock, bonds, bills of exchange, or other commercial notes or bills and securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment, or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any

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debt within five (5) years next preceding such investment; or in the bonds or notes of any educational or religious corporation where provision has been made for the payment of a sufficient amount of the first weekly or monthly revenues thereof to an interest and sinking fund account in a bank or trust company as an independent paying agent; provided, the market value of such stock, bills of exchange, or other commercial notes or bills and securities shall be at all times during the continuance of such loan at least fifty per cent (50%) more than the sum loaned thereon; provided that it shall not take as collateral security for any loan its own capital stock nor more than ten per cent (10%) of the amount of its capital, surplus, and contingency funds in the stock of any one corporation, nor in the stock of any manufacturing corporation with a capital stock of less than Twenty-five Thousand Dollars (\$25,000), nor in the stock of any oil corporation with a capital stock of less than Five Hundred Thousand Dollars (\$500,000); and provided further, that it shall not take as collateral security for any such loan any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes. As amended Acts 1955, 54th Leg., p. 916, ch. 363, § 12; Acts 1959, 56th Leg., p. 54, ch. 29, § 1; Acts 1959, 56th Leg., p. 96, ch. 49, § 3; Acts 1959, 56th Leg., p. 626, ch. 282, § 1; Acts 1959, 56th Leg., p. 890, ch. 411, §§ 1-3; Acts 1961, 57th Leg., p. 925, ch. 410, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Purchase of stock for total assumption reinsurance, see art. 21.26.

Section 2 of the amendatory Act of 1961 added art. 3.39a.

Stipulated premium insurance companies, see art. 22.18.

Production payments as investments for income, see art. 3.40.

Stock insurers, merger or consolidation, see art. 21.25.

**Art. 3.39a. Life insurance company prohibited from subscribing to or underwriting purchase or sale of securities or property**

No life insurance company organized under the laws of this state shall subscribe to, or participate in, any underwriting of the purchase or sale of securities or property or enter into any such transaction for such purpose, or sell on account of such company jointly with any other person, firm or corporation, nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its Board of Directors. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 3.39a added Acts 1961, 57th Leg., p. 925, ch. 410, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 3.40. May Hold Real Estate**

Every such insurance company may secure, hold and convey real property only for the following purposes and in the following manner:

5. All such real property specified in Subdivisions 2, 3, and 4 of this Article which shall not be necessary for its accommodation in the convenient transactions of its business, except interests in minerals and royalties reserved upon the sale of land acquired under such Subdivisions 2, 3, and 4 hereof prior to January 1, 1942, shall be sold and disposed of within five (5) years after the company shall have acquired title to the same, or within five (5) years after the same shall have ceased to be necessary for the accommodation of its business. It shall not hold such property for a longer period, unless it shall procure a certificate from the Board that its interests will suffer materially by the forced sale there-

For Annotations and Historical Notes, see V. T. A. S.

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of; in which event the time for the sale may be extended to such time as the Board shall direct in such certificate. As amended Acts 1955, 54th Leg., p. 916, ch. 363, § 13; Acts 1959, 56th Leg., p. 890, ch. 411, § 4; Acts 1961, 57th Leg., p. 1049, ch. 467, § 4.

Emergency. Effective June 16, 1961.

In addition to, and without limitation on, the purposes for which real property may be acquired, secured, held or retained pursuant to other provisions of this Article, every such insurance company may secure, hold, retain and convey production payments as an investment for the production of income; provided, however, that the total amount of all such investments in production payments plus the total amount of investments in home office and branch office properties under Subdivision 1(a) of this Article shall not exceed the total amount permitted by, and shall be subject to all of the limitations and restrictions of Subdivisions 1(b) and 1(c) of this Article and for this purpose all investments in production payments pursuant to the provisions of this paragraph shall be deemed to be "properties described in Subdivision 1(a)" of this Article; and provided further, that in valuing each such production payment for the purposes of Subdivision 1(c) of this Article, the State Board of Insurance may establish such value as being the maximum amount which the company purchasing such production payment could loan against a first lien on such production payment under the provisions of Section 2 of Article 3.39 of the Insurance Code; and provided further, no such company shall make any investment in such production payments solely as an investment for the production of income if, after making such investment, the total investment of the company at cost in such production payments is in excess of ten per cent (10%) of its admitted assets as of December 31st next preceding the date of such investment. For the purposes of this paragraph, a production payment is defined to mean a right to oil, gas or other minerals in place or as produced that entitles its owner to a specified fraction of production until a specified sum of money, or a specified number of units of oil, gas or other minerals, has been received, and shall not include fee interests, leasehold interests or working interests, and shall not include royalties, overriding royalties, or other mineral interests which are not limited as set forth in the foregoing definition. Added Acts 1961, 57th Leg., p. 627, ch. 294, § 1.

Emergency. Effective June 14, 1961.

Authorized investments for domestic companies, see art. 3.39. Stipulated premium insurance companies, see art. 22.18.

## SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

### Art. 3.50. Group Life Insurance

#### Sec. 1. Definitions.

(3) A policy issued to any association of employees of the United States Government or any subdivision thereof, provided the majority of the members of such association are residents of this state, an incorporated city, town or village, an independent school district, common school district, state colleges or universities, any association of state employees, any association of state, county and city, town or village employees, and any association of any combination of state, county or city, town or village employees and any department of the state government which employer or association shall be deemed the policyholder to insure the employees of any such incorporated city, town or village, of any such in-

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dependent school district, of any common school district, of any such state college and university, of any such department of the state government, members of any association of state, county or city, town or village or of the United States Government or any subdivision thereof, provided the majority of such employees reside in this state, employees for the benefit of persons other than the policyholder subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment.

(b) The premium for the policy shall be paid by the policyholder wholly from funds contributed by the insured employees, provided, however, that any moneys or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees contributions therefor; and provided further, that the employer may deduct from the employees salaries the required contributions for the premiums when authorized in writing by the respective employees so to do; and provided further, the premium for the policy may be paid by the policyholder wholly or partly from funds contributed by any incorporated city, town or village policyholder when authorized by the charter of such city, town or village, or by any independent school district in counties having a population of over one hundred fifty thousand (150,000) according to the most recent United States Government census. Such policy may be placed in force only if at least seventy-five percent (75%) of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

(c) The policy must cover at least ten (10) employees at date of issue. As amended Acts 1953, 53rd Leg., p. 853, ch. 345, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 52, ch. 18, § 1; Acts 1955, 54th Leg., p. 809, ch. 299, § 1; Acts 1961, 57th Leg., p. 995, ch. 434, § 1.

Emergency. Effective June 17, 1961.

Section 2A of the amendatory Act of 1961 or amend Senate Bill No. 50, Acts of the provided that nothing in this Act shall alter Regular Session of the 57th Legislature.

(5) A policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers and the employees of the trade association of such employers or all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of



a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, partly from such funds and partly from funds contributed by the insured persons, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five per cent (75%) of the then eligible persons of each participating employer unit, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at date of issue at least one hundred (100) persons; unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder or employer. No policy may be issued which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to trustees or employers exceeds Twenty Thousand Dollars (\$20,000.00), unless one hundred fifty per cent (150%) of the annual compensation of such person from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Forty Thousand Dollars (\$40,000.00) or one hundred fifty per cent (150%) of such annual compensation, whichever is the lesser.

(e) The limitation as to amount of group insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amount provided by the policy which it replaces, or the amounts provided above whichever is greater.

(f) No policy may be issued (i) to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer (regardless of whether such other employer is or is not participating in the fund);

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or (ii) to insure employees of any employer which is not located in this state, unless the majority of the employers whose employees are to be insured are located in this state, or unless the policy is issued to the trustees of a fund established by one or more labor unions. Added Acts 1961, 57th Leg., p. 563, ch. 263, § 1.

(6) No policy of wholesale, franchise or employee life insurance, as hereinafter defined, shall be issued or delivered in this state unless it conforms to the following requirements:

(a) Wholesale, franchise or employee life insurance is hereby defined as: a term life insurance plan under which a number of individual term life insurance policies are issued at special rates to a selected group. A special rate is any rate lower than the rate shown in the issuing insurance company's manual for individually issued policies of the same type and to insureds of the same class.

(b) Wholesale, franchise or employee life insurance may be issued to (1) the employees of a common employer or employers, covering at date of issue not less than five employees; or (2) the members of a labor union or unions covering at date of issue not less than five members; or (3) the members of a credit union or credit unions covering at date of issue not less than five (5) members.

(c) The premium for the policy shall be paid either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions or by both, or partly from such funds and partly from funds contributed by the insured person, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month.

(d) No policy may be issued on a wholesale, franchise or employee life insurance basis which, together with any other term life insurance policy or policies issued on a wholesale, franchise, employee life insurance or group basis, provides term life insurance coverage for an amount in excess of Twenty Thousand Dollars (\$20,000.00) unless one hundred fifty per cent (150%) of the annual compensation of such person from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Forty Thousand Dollars (\$40,000.00), or one hundred fifty per cent (150%) of such annual compensation, whichever is the lesser. An individual application shall be taken for each such policy and the insurer shall be entitled to rely upon the applicant's statements as to applicant's other similar coverage upon his life.

(e) Each such policy of insurance shall contain a provision substantially as follows:

A provision that if the insurance on an insured person ceases because of termination of employment or of membership in the union, such person shall be entitled to have issued to him by the insurer, without evidence of insurability an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination.

(f) Each such policy may contain any provision substantially as follows:

(1) A provision that the policy is renewable at the option of the insurer only;

(2) A provision for termination of coverage by the insurer upon termination of employment by the insured employee;

(3) A provision requiring a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as condition to coverage.

(g) The limitation as to amount of group and wholesale, franchise or employee life insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

(h) Nothing contained in this Subsection (6) shall in any manner alter, impair or invalidate (1) any policy heretofore issued prior to the effective date of this Act; nor (2) any such plan heretofore placed in force and effect provided such prior plan was at date of issue legal and valid; nor (3) any policy issued on a salary savings franchise plan, bank deduction plan, pre-authorized check plan or similar plan of premium collection. Added Acts 1961, 57th Leg., p. 563, ch. 263, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 3.51. Group Insurance for Employees of State and Its Subdivisions and College and School Employees

Sec. 1. (a) The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, association of public employees, and the governing boards and authorities of each state university, college, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts insuring their respective employees or any class or classes thereof under a policy or policies of group health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance. The dependents of any such employees may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The employees' contributions to the premiums for such insurance issued to the employer or to an association of public employees as the policyholder may be deducted by the employer from the employees' salaries when authorized in writing by the respective employees so to do; provided, however, no state funds shall be used to procure such contracts, nor shall any state funds be used to pay premiums under said contracts of insurance.

(b) Independent School Districts, in counties having a population of at least nine hundred thousand (900,000) according to the most recent United States Government Census, procuring policies insuring their employees under this Section may pay all or any portion of the premiums on such policies from the local funds of such Independent School District, but in no event shall any part of such premiums be paid from funds paid such districts by the State of Texas. As amended Acts 1961, 57th Leg., p. 840, ch. 376, § 1.

<sup>1</sup> So in enrolled bill.

Emergency. Effective June 17, 1961.

Hospitalization insurance for county officials and employees, see Vernon's Ann. Civ.St. art. 2372h-2.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

**Art. 3.61. Certificate Null and Void, When**

Stipulated premium insurance companies,  
see art. 22.18.

**Art. 3.62—1. Delay in Payment of Losses on Policies Issued by Casualty and Other Companies; Penalty**

In all cases where a loss occurs and the general casualty company, state-wide mutual assessment associations, local mutual aid associations, mutual casualty company, Lloyds organization, reciprocal exchange, liable therefor under a life, health, or accident policy issued by any such insurer shall fail to pay the same within sixty (60) days after filing written proof of loss thereof, such insurer shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve percent (12%) damages on the amount of such loss, together with reasonable attorneys fees for the prosecution and collection of such loss. Such attorneys fees shall be taxed as a part of the costs in the case. The court in fixing such fees shall take into consideration all benefits to the insured incident to the prosecution of the suit, accrued and to accrue on account of such policy.

Provided, however, where for any reason the holder of said policy is unable to furnish the insurer a certified copy of the death certificate of the insured within the sixty (60) day period, then the provisions of this Act relating to attorneys fees shall not apply. Acts 1957, 55th Leg., p. 1161, ch. 387, § 1; as amended Acts 1961, 57th Leg., p. 862, ch. 381, § 1.

Emergency. Effective June 17, 1961.

*Article 3.62—1 was not originally enacted as part of the Insurance Code of 1951.*

The amendment by Acts 1961, 57th Leg., Regular Session, 1957, codified as Article p. 862, ch. 381, § 1, was of "Section 1 of 3.62—1." Chapter 387, Acts of the 55th Legislature,

**Art. 3.63. To Sue and Be Sued**

Stipulated premium insurance companies, see art. 22.18.

**Art. 3.67. Director Not to Do Certain Things**

Stipulated premium insurance companies, see art. 22.18.

SUBCHAPTER G. ACCIDENT AND SICKNESS  
INSURANCE [NEW]

**Art. 3.70—1. Definitions; Scope of Act**

Stipulated premium insurance companies,  
see art. 22.01 et seq.

**Art. 3.70—2. Form of policy**

Severability clause, repeal of conflicting laws, see note under art. 3.70—1.

## CHAPTER SIX—FIRE AND MARINE COMPANIES

## Art. 6.08. Holding Real Estate

No such company shall be permitted to purchase, hold or convey real estate, except for the purpose and in the manner herein set forth:

1. For the erection and maintenance of buildings at least ample and adequate for the transaction of its own business;

2. Such as shall have been mortgaged to it in good faith by way of security of loans previously contracted or for money due;

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the legitimate business of the company or for money due;

4. Such as shall have been purchased at sales under judgments, decrees or mortgages obtained or made for such debts;

5. Mineral and royalty interests reserved upon the sale of land acquired under Subdivisions 2, 3, and 4 of this Article 6.08 of this Code before January 1, 1942.

All real estate acquired under authority of the above paragraphs of this Article numbered 2, 3, and 4, or either of them, shall be subject to the provisions of Article 8.19 of this Code.

No more than thirty-three and one-third per cent ( $33\frac{1}{3}\%$ ) of its admitted assets shall be invested by such company in real estate, and none of its capital and minimum surplus may be so invested, except to the extent that the foregoing limitation shall not apply to real estate held under authority of the above paragraphs of this Article numbered 2, 3, 4, and 5, or either of them.

The value of real estate mentioned in paragraph numbered 1 above shall be appraised by two (2) or more competent and disinterested citizens of Texas appointed by the Board of Insurance Commissioners of Texas, when such real estate is hereafter acquired or when amendment to charter is applied for, the reasonable cost and expense of such appraisal to be paid by the insurance company to the Board. As amended Acts 1955, 54th Leg., p. 413, ch. 117, § 20; Acts 1961, 57th Leg., p. 1049, ch. 467, § 1.

Emergency. Effective June 16, 1961.

Acts 1961, 57th Leg., p. 1049, ch. 467, §§ 2-4, amended articles 8.19, 8.18, and 3.40 of the Insurance Code.

## CHAPTER EIGHT—GENERAL CASUALTY COMPANY

## Art. 8.18. Real Estate

Such company shall be subject to the provisions of Article 6.08 of this Code; and no such company shall be permitted to purchase, hold or convey real estate, except for the purposes and in the manner set forth in said Article. As amended Acts 1955, 54th Leg., p. 413, ch. 117, § 23; Acts 1961, 57th Leg., p. 1049, ch. 467, § 3.

Emergency. Effective June 16, 1961.

## Art. 8.19. Sale of Real Estate

All real estate so acquired, except as is occupied by buildings used in whole or in part for the accommodation of such companies in the transaction of their business and except interests in minerals and royal-

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ty reserved upon the sale of land acquired under Subdivisions 2, 3, and 4 of Article 6.08 of this Code prior to January 1, 1942, shall, except as hereinafter provided, be sold and disposed of within ten (10) years after such company shall have acquired title to the same. No such company shall have such real estate for a longer period than that above mentioned, unless the said company shall procure a certificate from the Board that the interests of the company will suffer materially by a forced sale of such real estate, in which event the time for the sale may be extended to such time as the Board shall direct in said certificate. As amended Acts 1961, 57th Leg., p. 1049, ch. 467, § 2.

Emergency. Effective June 16, 1961.

### CHAPTER NINE—TITLE INSURANCE COMPANIES

Art.

9.01a Right to adopt and become subject to certain provisions of the Texas Business Corporation Act [New].

#### Art. 9.01—1. Transfer and assignment of fiduciary business to state banks or trust companies

Section 1. Any corporation heretofore chartered under the provisions of Article 9.01, the Texas Insurance Code, or its antecedent Chapter 40, Acts, Forty-first Legislature, 1929 (codified as Article 1302a, Vernon's Texas Civil Statutes), having as one of its powers "to act as trustee under any lawful trust committed to it by contract or will, appointment by any court having jurisdiction of the subject matter, as trustee, receiver or guardian and as executor or guardian under the terms of any will and as any administrator of the estates of decedents under the appointment of the court" may transfer and assign to a State bank or trust company created under the provisions of the Texas Banking Code of 1943, as amended, all of its fiduciary business in which such corporation is named or acting as guardian, trustee, executor, administrator or in any other fiduciary capacity, whereupon said State bank or trust company shall, without the necessity of any judicial action in the courts of the State of Texas or any action by the creator or beneficiary of such trust or estate, continue the guardianship, trusteeship, executorship, administration or other fiduciary relationship, and perform all of the duties and obligations of such corporation, and exercise all of the powers and authority relative thereto now being exercised by such corporation, and provided further that the transfer or assignment by such corporation of such fiduciary business being conducted by it under the powers granted in its original charter, as amended, shall not constitute or be deemed a resignation or refusal to act upon the part of such corporation as to any such guardianship, trust, executorship, administration, or any other fiduciary capacity; and provided further that the naming or designation by a testator or the creator of a living trust of such corporation to act as trustee, guardian, executor, or in any other fiduciary capacity, shall be considered the naming or designation of the State bank or trust company and authorizing such State bank or trust company to act in said fiduciary capacity. All transfers and assignments of fiduciary business by such corporations to a State bank or trust company consistent with the provisions of this Act are hereby validated.

Sec. 2. The power and authority of such corporation to transfer and assign its fiduciary business to a State bank or trust company as

provided in Section 1 hereof shall expire on April 30, 1962. Acts 1961, 57th Leg., p. 243, ch. 125.

Emergency. Effective May 15, 1961.

*Article 9.01—1 was not enacted as part of the Insurance Code of 1951.*

Capital stock of bank exercising trust powers, see Vernon's Ann.Civ.St. art. 342—303.

Conveyances by trustees, see Vernon's Ann.Civ.St. art. 7425b—8.

Power of state bank to act as trustee, see Vernon's Ann.Civ.St. art. 342—301.

Trustees, powers, duties and responsibilities, see Vernon's Ann.Civ.St. art. 7425b—25.

## CHAPTER ELEVEN—MUTUAL LIFE INSURANCE COMPANIES

### Art. 11.01. Incorporation

Purchase of stock for total assumption reinsurance, see art. 21.26.

## CHAPTER TWELVE—LOCAL MUTUAL AID ASSOCIATIONS

### Art. 12.01. Scope of Chapter

Stipulated premium insurance companies, see art. 22.01 et seq.

## CHAPTER FOURTEEN—GENERAL PROVISIONS FOR MUTUAL ASSESSMENT COMPANIES

### Art. 14.23. Assessments; Rate Schedules

Each association shall levy regular and periodical assessments by whatever name they may be called. These assessments must be in such amounts and at such proper intervals as will meet the reasonable operating expenses of the association, and pay in full the claims arising under its certificates. When or if in the course of operation it shall be apparent that the claims cannot be met in full from current assessments and funds on hand, the amount shall be increased until it is adequate to meet such claims, and the State Board of Insurance shall so order.

The Board of Directors of the association may increase rates on life policies in force up to the rate on an attained age basis in accordance with the 1956 Chamberlain Rate and Reserve Table with interest calculated at three and one-half per cent (3½%) or any other reasonable and necessary increase and may likewise adjust rates on health, accident, sickness and hospitalization policies in force, but any such increase on policies in force shall not be placed in effect without the advance approval of the State Board of Insurance. Any increased rate or rate adjustment on policies in force shall apply to all classes of the same or similar policy forms so as not to discriminate because of age.

In the event the rates are increased upon life policies in force, exclusive of assessments upon assessment-as-needed policies, at least ninety per cent (90%) of any such increase on life policies shall be deposited to the mortuary or claim funds of the association.

When any association shall refuse to comply with the State Board of Insurance recommendations or requirements respecting rates or as-

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assessments, it shall be treated as insolvent, and shall be dealt with as is hereinafter provided.

Each association operating under the provisions of this Chapter shall file its rate schedules with the State Board of Insurance. As amended Acts 1961, 57th Leg., p. 234, ch. 121, § 1.

Emergency. Effective May 15, 1961.

**CHAPTER TWENTY-ONE—GENERAL PROVISIONS**

SUBCH. B. MISREPRESENTATION  
AND DISCRIMINATION

SUBCH. E. MISCELLANEOUS  
PROVISIONS

Art.

21.21—1. Unauthorized Insurers False Advertising Process Act [New].

Art.

21.48 Repealed.

**SUBCHAPTER B. MISREPRESENTATION AND DISCRIMINATION**

**Art. 21.21—1. Unauthorized Insurers False Advertising Process Act**

**Purpose of Act**

Section 1. (a) The purpose of this Act is to subject to the jurisdiction of the State Board of Insurance of this state and to the jurisdiction of the courts of this state insurers not authorized to transact business in this state which place in or send into this state any false advertising designed to induce residents of this state to purchase insurance from insurers not authorized to transact business in this state. The Legislature declares it is in the interest of the citizens of this state who purchase insurance from insurers which solicit insurance business in this state in the manner set forth in the preceding sentence that such insurers be subject to the provisions of this Act. In furtherance of such state interest, the Legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing, it exercises its powers to protect its residents and also exercises powers and privileges available to the state by virtue of Public Law 15, 79th Congress of the United States, Chapter 20, 1st Session, S. 340,<sup>1</sup> which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states; the authority provided herein to be in addition to any existing powers of this state.

(b) The provisions of this Act shall be liberally construed.

**Definitions**

Sec. 2. (a) The term "foreign or alien insurer" shall mean any insurance company organized under the laws of any other state or territory of the United States or any foreign country.

(b) "Unfair Trade Practice Act" shall mean the Act of 1957, 55th Legislature, page 401, Chapter 198, also known as Article 21.21 of the Insurance Code.

(c) "Residents" shall mean and include person, partnership or corporation, domestic, alien or foreign.

**Notice to Domiciliary Supervisory Official**

Sec. 3. No unauthorized foreign or alien insurer shall make, issue, circulate or cause to be made, issued or circulated, to residents of this state any advertisement, estimate, illustration, circular, pamphlet, or letter, or cause to be made in any newspaper, magazine or other publication



or over any radio or television station, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of the Unfair Trade Practice Act, and whenever the State Board of Insurance shall have reason to believe that any such insurer is engaging in such unlawful advertising, it shall be its duty to give notice of such fact by registered mail to such insurer and to the insurance supervisory official of the domiciliary state of such insurer. For the purpose of this Section, the domiciliary state of an alien insurer shall be deemed to be the state of entry or the state of the principal office in the United States.

#### Action by State Board of Insurance

Sec. 4. If after thirty (30) days following the giving of the notice mentioned in Section 3 such insurer has failed to cease making, issuing, or circulating such false misrepresentations or causing the same to be made, issued or circulated in this state, and if the State Board of Insurance has reason to believe that a proceeding by it in respect to such matters would be to the interest of the public, and that such insurer is issuing or delivering contracts of insurance to residents of this state or collecting premiums on such contracts or doing any of the acts enumerated in Section 5, the said Board shall take action against such insurer under the Unfair Trade Practice Act.

#### Service Upon Unauthorized Insurer

Sec. 5. (a) Any of the following acts in this state, affected by mail or otherwise, by any such unauthorized foreign or alien insurer: (1) The issuance or delivery of contracts of insurance to residents of this state, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of insurance business, is equivalent to and shall constitute an appointment of such insurer of the Commissioner of Insurance of this state and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all statements of charges, notices and lawful process in any proceeding instituted in respect to the misrepresentations set forth in Section 3 hereof under the provisions of the Unfair Trade Practice Act, or in any action, suit or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its agreement that such service of statement of charges, notices, or process is of the same legal force and validity as personal service of such statement of charges, notices or process in this state, upon such insurer.

(b) Service of a statement of charges and notices under said Unfair Trade Practice Act shall be made by any deputy or employee of the State Board of Insurance delivering to and leaving with the Commissioner of Insurance or some person in apparent charge of his office, two (2) copies thereof. Service of process issued by any court in any action, suit or proceeding to collect any penalty under said Act provided, shall be made by delivering and leaving with the Commissioner of Insurance, or some person in apparent charge of his office, two (2) copies thereof. The Commissioner shall forthwith cause to be mailed by registered mail one (1) of the copies of such statement of charges, notices or process to the defendant at its last known principal place of business, and shall keep a record of all statements of charges, notices and process so served. Such service of statement of charges, notices or process shall be sufficient

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provided they shall have been so mailed and the defendant's receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing such letter showing a compliance herewith are filed with the Commissioner of Insurance in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed.

(c) Service of statement of charges, notices and process in any such proceeding, action or suit shall in addition to the manner provided in Subsection (b) of this Section be valid if served upon any person within this state who on behalf of such insurer is:

- (1) Soliciting insurance; or
- (2) Making, issuing, or delivering any contract of insurance; or
- (3) Collecting or receiving in this state any premium for insurance; and a copy of such statement of charges, notices or process is sent within ten (10) days thereafter by registered mail by or on behalf of the Commissioner of Insurance to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the Commissioner of Insurance in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow.

(d) No cease or desist order or judgment by default under this Section shall be entered until the expiration of thirty (30) days from the date of the filing of the affidavit of compliance.

(e) Service of process and notice under the provisions of this Act shall be in addition to all other methods of service provided by law, and nothing in this Act shall limit or prohibit the right to serve any statement of charges, notices or process upon any insurer in any other manner now or hereafter permitted by law.

**Short Title**

Sec. 7. This Act may be cited as the Unauthorized Insurers False Advertising Process Act. Acts 1961, 57th Leg., p. 235, ch. 122.

<sup>1</sup> 15 U.S.C.A. §§ 1011-1015.  
Emergency. Effective May 15, 1961.

*Article 21.21—1 was not enacted as part of the Insurance Code of 1951.*

Advertising deposit of mutual assessment company, see art. 14.10.

Board of insurance commissioners, see art. 1.02.

Direct insurance with unauthorized insurer, see art. 21.38.

Duties of board of insurance commissioners, see arts. 1.04, 1.10.

Foreign insurance company, definition, see art. 3.01.

Foreign insurance corporations, see art. 21.43.

Misrepresentation and discrimination, see art. 21.16 et seq.

Service of citation, see Vernon's Texas Rules of Civil Procedure, Rules 106, 116.

Service of process upon unauthorized insurers, see art. 21.38, § 6.

Unfair competition and unfair practices, see art. 21.21.

## SUBCHAPTER D. CONSOLIDATION, LIQUIDATION, REHABILITATION, REORGANIZATION OR CONSERVATION OF INSURERS

## Art. 21.25. Mergers and Consolidations of Stock Insurers

Section 1. Any two (2) or more insurance corporations doing a similar line of business, may merge or consolidate. The procedure for, the effect of, and the rights and duties of creditors, shareholders, and the corporations involved in such merger or consolidation shall be governed by applicable provisions of the "Texas Business Corporation Act," as amended, insofar as the same are not inconsistent with the provisions of this Act, and the Insurance Code of the State of Texas. Wherever in said "Texas Business Corporation Act" some duty, responsibility, power, authority, or act is vested in, required of, or to be performed by the Secretary of State such is to be vested in, required of, or performed by the Commissioner of Insurance insofar as such Act is applicable to insurance corporations under the provisions hereof.

Sec. 2. Before any such proposed plan of merger or consolidation is submitted to the shareholders for their approval, as provided under the "Texas Business Corporation Act," it shall first be approved by the Boards of Directors of the two or more corporations planning to merge or consolidate; and thereafter such plan shall be submitted to the shareholders of each of the corporations which are parties to the plan at separate regular or special meetings of the shareholders of the corporations, called in the manner provided by the By-Laws of the respective corporations and may be approved by the affirmative vote of the holders of two-thirds ( $\frac{2}{3}$ ) of the shares of the capital stock of each of such corporations.

Sec. 3. After such plan has been approved as provided in Section 2 hereof, it shall then be filed with the Commissioner of Insurance. The Commissioner shall hold a hearing within fifteen (15) days of filing the plan and shall then give approval in writing to each insurer involved within fifteen (15) days after the hearing unless he finds the plan contrary to law or that it would not be in the best interests of the policyholders affected by the plan and would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere. The Commissioner of Insurance may extend the fifteen (15) day period within which he may affirmatively approve or disapprove such plan when such action is concurred in by representatives of applicants to the merger or consolidation. In the event of disapproval of the plan, he shall specify in detail his reasons therefor. The merger shall be effective upon the date specified in the proposed plan of merger; or where consolidation results, the new corporation shall be issued a charter and license upon submission of proper articles of incorporation to the Commissioner of Insurance, and upon his approval together with approval of the Attorney General in accordance with the procedure now required for the issuance of a new charter, and proof that it has capital and surplus of not less than the capital and surplus of the corporation involved in such consolidation having the largest capital and surplus, and it shall be effective upon such date of issuance. A merger or consolidation involving a corporation organized under the laws of another state shall not be effective until the merger or consolidation has been approved by the proper official of the domiciliary state of the out-of-state corporation, when such approval is required under the laws of such domiciliary state.

Sec. 4. All policies of insurance outstanding against any corporation so merged or consolidated shall be assumed by the new or surviving corporation on the same terms under the same conditions as if such policies had continued in force in the original corporation, and such insurer shall carry out the terms of such policy and be entitled to all the rights and privileges thereof and the reserves accumulating on such policy prior to such merger or consolidation.

Sec. 5. In the event of the merger or consolidation of any two or more insurance corporations under the provisions of this Act, all investments of such corporations so absorbed, that were authorized when made by the laws of the state in which such insurance corporations were organized, as proper securities or assets, including real property, for investment of funds of an insurance corporation and which are taken over by such new or surviving corporation by virtue of a merger or consolidation under the provisions of the Act, shall be, under the laws of this state, considered as valid securities or assets, including real property, of such new or surviving corporation by virtue of a merger or consolidation under the provisions of this Act, provided such investments are approved by the Commissioner of Insurance in this state, and the same are taken over on terms satisfactory to said Commissioner; provided, however, that in the event the new or surviving corporation acquires by virtue of such merger or consolidation real estate or property beyond or in excess of that permitted by the applicable Articles pertaining to owning or holding real estate, such new or surviving corporation shall sell and dispose of all such excess real estate within the time specified in such applicable Articles; provided that the new or surviving corporation shall not hold such property for a longer period unless it shall procure a certificate from said Commissioner that its interests will materially suffer by the forced sale thereof; in which event the time for the sale thereof may be extended to such time as the Commissioner shall direct in such certificate. Provided further, that this Section will not preclude the designation and use of such acquired excess real estate as branch offices in accordance with the applicable provisions of this Code.

Sec. 6. If, after any merger or consolidation is completed, the new or surviving corporation acquires its own shares as a result of distribution of shares to the shareholders of the other corporation or corporations which are being merged or consolidated, or acquires its own stock as a result of purchase of stock of the dissenting shareholders, such stock may be held as treasury stock for a period of one (1) year, after which time such corporation shall retire and cancel such stock by proper charter amendment, if the same has not previously been reissued.

Sec. 7. One insurance corporation may purchase or contract to purchase all or part of the outstanding stock of another insurance corporation as a part of a plan of merger or consolidation. The provisions contained in Article 3.39 of the Insurance Code which limits investments in the corporate stock of another corporation shall not apply provided that such purchase or contract to purchase shall be subject to the following conditions or limitations:

(a) The intention to merge or consolidate is evidenced by a resolution adopted by the Board of Directors of the purchasing corporation at or prior to the purchase of such stock or the execution of a contract to purchase such stock; and

(b) The purchasing corporation shall initially purchase or contract to purchase the number of shares of the stock of the other insurance corporation necessary to vote an approval of such merger or consoli-

dation under the laws of the state in which such other insurance corporation was organized; and

(c) No purchase of stock in excess of the limits of Article 3.39 of the Insurance Code may be made until such merger or consolidation has been approved by the appropriate regulatory authority of the domiciliary state of each of the corporations being so merged or consolidated, where the laws of such state require such an approval; nor shall any binding liability accrue on the contract to purchase such stock unless and until the merger or consolidation has been so approved; and

(d) The merger or consolidation becomes effective on or before December 31st in the year following the year in which the initial purchase of such stock is made or the initial contract to purchase is executed, whichever shall occur first; and

(e) In the event the purchasing company does not initially purchase or contract to purchase all of the stock of the corporation being merged or consolidated, such purchasing corporation shall at least fifteen (15) days prior to the effective date of such merger or consolidation offer to purchase the remaining shares at the price paid on the initial purchase or offered in any contract to purchase, under subparagraph (a) hereof; except, however, that if such offer is not accepted prior to the effective date of the merger or consolidation the non-acceptance of the offer shall not affect the merger or consolidation except as otherwise provided by law; and

(f) In no event shall such sums actually paid out for the purchase of stock include the minimum capital, minimum surplus, and policy reserves required by law for such corporations.

Sec. 8. Nothing herein shall be construed as affecting, modifying, amending or repealing in any manner the Anti-Trust Statutes of this state. As amended Acts 1961, 57th Leg., p. 593, ch. 284, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Authorized investments for domestic companies, see art. 3.39.

Stipulated premium insurance companies, see art. 22.18.

Domestic corporations, merger or consolidation, see V.A.T.S.Bus.Corp.Act, art. 5.07 et seq.

Trusts and conspiracies against trade, see Vernon's Ann.Civ.St., art. 7426 et seq.

#### Art. 21.26. Purchase of Stock for Total Assumption Reinsurance

Section 1. Nothing in this Act or in the Insurance Code shall be construed as in any way affecting or limiting the right of a life insurance corporation organized or operating under Chapter Three (3) or Chapter Eleven (11) of the Insurance Code of the State of Texas to purchase or to contract to purchase all or part of the outstanding shares of another life insurance corporation, domestic or foreign, doing a similar line of business for the purpose of reinsuring all of the business of such other insurance corporation and assuming all of the liabilities and taking over all of the assets of such other corporation. The provisions contained in Article 3.39 of the Insurance Code limiting investments in the purchase of the corporate shares of another corporation shall not apply to such purchase or contract to purchase provided that:

(a) The intention to reinsure is evidenced by a resolution adopted by the Board of Directors of the reinsuring corporation at or prior to the purchase of such stock or the execution of a contract to purchase such stock; and

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(b) The reinsuring corporation shall initially purchase or contract to purchase the number of shares of the stock of the other insurance corporation necessary under the laws of the state in which the reinsured company was organized to vote an approval of a total assumption reinsurance agreement; and

(c) No purchase of stock in excess of the limits of Article 3.39 of the Insurance Code may be made until such reinsurance agreement has been approved by the appropriate regulatory authority of the domiciliary state of the corporation to be reinsured, where the laws of such state require such an approval; and

(d) The reinsurance agreement becomes effective on or before December 31st in the year following the year in which the initial purchase of such stock is made or the initial contract to purchase is executed, whichever shall occur first; and

(e) In the event the reinsuring corporation does not initially purchase or contract to purchase all of the stock of the corporation to be reinsured, such reinsuring corporation shall at least fifteen (15) days prior to the effective date of such reinsurance agreement offer to purchase the remaining shares at the price paid on the initial purchase or offered in the initial contract to purchase, pursuant to subparagraph (a) hereof, except, however, that if such offer is not accepted prior to the effective date of the reinsurance agreement the non-acceptance of the offer shall not affect the reinsurance agreement except as otherwise provided by law; and

(f) In no event shall such sums actually paid out for the purchase of stock include the minimum capital, minimum surplus and policy reserves required by law of the reinsuring corporation.

Sec. 2. All investments of such reinsured corporation shall be subject to Section 5 of Article 21.25 hereof, as if such corporation had been merged or consolidated.

Sec. 3. Nothing herein shall be construed as affecting, modifying, amending or repealing in any manner the Anti-Trust Statutes of this state. As amended Acts 1959, 56th Leg., p. 697, ch. 319, § 1; Acts 1961, 57th Leg., p. 593, ch. 284, § 2.

Effective 90 days after May 29, 1961,  
date of adjournment.

Mutual life insurance companies, see art.  
11.01 et seq.

Authorized investments for domestic  
companies, see art. 3.39.

Stipulated premium insurance compa-  
nies, see art. 22.18.

## Art. 21.28. Liquidation, Rehabilitation, Reorganization or Conservation of Insurers

### Sec. 8. Distribution of Assets.

(e) Unclaimed Funds. Unclaimed dividends on approved claims, unclaimed returned assessments, and all other unclaimed funds subject to distribution to claimants, policyholders or other persons, remaining in the receiver's hands after payment of the final dividend shall be delivered to the Board at the time the receivership is closed, or in the event a final dividend is paid less than ninety (90) days prior to the closing of the receivership, the receiver may continue the bank account or accounts of such receivership from which such funds might be paid, for a period of time not to exceed ninety (90) days from the date of the closing of said receivership, before the same are so delivered to the Board. Such funds shall be deposited by the Board in trust in a special

account to be maintained with the State Treasurer. As amended Acts 1961, 57th Leg., p. 997, ch. 435, § 1.

(f) Recovery by Owner. On receipt of satisfactory written and verified proof of ownership within two (2) years from the date such funds are so deposited with the State Treasurer, the Board shall certify such facts to the Comptroller of Public Accounts, who shall issue proper warrant therefor in favor of the parties respectively entitled thereto, drawn on the State Treasurer. As amended Acts 1961, 57th Leg., p. 997, ch. 435, § 1.

(g) Declaration of Abandonment. After such funds have remained unclaimed for two (2) years, the Liquidator may initiate action to have them declared to be abandoned, and the property of the State Board of Insurance. Such action shall be commenced by the filing by the Liquidator, in the court of competent jurisdiction in the county in which the delinquency proceeding is, or was pending, of a notice of his intention to declare such funds to be abandoned, and that he is claiming the same as the property of the State Board of Insurance. Such action may be for all or any part of such funds accumulated in any one particular receivership. Such notice shall state the name or names of the person or persons entitled thereto, his or their last known address, and the nature or source and amount of the fund or funds. Upon the filing of such notice by the Liquidator, the court shall set a date for the hearing of the application, and shall make notation thereon of the date of such hearing, which date shall be at least twenty (20) days subsequent to the date of the filing of said notice. A copy of said notice, with the judge's notation thereon shall be posted on the courthouse door of said court for at least twenty (20) days before a hearing is had thereon. Notice of the filing of the application shall be published at least once, and at least ten (10) days prior to the date set for such hearing, in a newspaper of general circulation in the county where the application is pending. Such notice shall be addressed to the true owners of unclaimed funds in the particular receivership involved in the application and shall state generally that a hearing shall be had on the date specified for the purpose of declaring such funds to be abandoned and the property of the State Board of Insurance. Upon the hearing on such application of the Liquidator, proof to the satisfaction of the court:

(1) That such funds, or the checks therefor, had previously been sent by the Receiver to the last known address of the person or persons entitled thereto;

(2) That such funds, or the checks therefor, had been returned unclaimed or that the check or checks therefor had not been cashed;

(3) That the funds had been delivered to the Board as required by Subsection (e) above;

(4) That such money remained unclaimed with the Board for two (2) years; and

(5) That notice of the filing of the application has been published as herein provided, shall be prima facie evidence of the intention of the person or persons entitled thereto to abandon the same, and that the Board is the rightful owner thereof. Upon such finding by the court, the court shall be authorized to render judgment accordingly. Upon receipt of such judgment, the Board shall certify such fact to the Comptroller of Public Accounts, who shall issue proper warrant therefor to the State Board of Insurance. The Board shall forthwith deposit such funds in accordance with the provisions of Section 2(h) of this Article, except

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that such funds derived through any one insurer need not be kept separate from such funds derived through any other insurer. Added Acts 1961, 57th Leg., p. 997, ch 435, § 1.

(h) Use of Abandoned Funds. Such funds so deposited by the Board in accordance with Subsection (g) above may be expended by the Liquidator, with the consent of the Board, for the purpose of paying expenses of the office of the Liquidator and/or Receiver that are not properly chargeable to any one receivership or conservatorship estate, and for the purpose of financing continued operation of any receivership or conservatorship then being administered by the Liquidator as Receiver or Conservator, when in the discretion of the Board it appears to be in the best interest of such receivership or conservatorship estate that it not be closed, and that additional administration be had thereon. Any funds so applied from this source to another receivership or conservatorship estate are to be repaid from the assets of the receivership or conservatorship estate to which they were applied before additional dividends are paid in any such receivership, or before the conservatorship is released for continued operation. Added Acts 1961, 57th Leg., p. 997, ch. 435, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Stipulated premium insurance companies, see art. 22.18.

#### SUBCHAPTER E. MISCELLANEOUS PROVISIONS

##### Art. 21.38. Direct Insurance With Unauthorized Insurers

Unauthorized insurers false advertising process act, see art. 21.21—1.

##### Art. 21.39. Loss or Claim Reserves

Stipulated premium insurance companies, see art. 22.18.

##### Art. 21.45. Minimum Insurance to Be Maintained by Insurance Companies.

Stipulated premium insurance companies, see art. 22.18.

##### Art. 21.47. Falsification or concealment by trick, scheme or device of material fact; fraudulent statement; penalty; venue

Any person, in any matter within the jurisdiction of the State Board of Insurance or the Commissioner of Insurance, who shall, with regard to a material fact, knowingly and wilfully falsify, conceal, or cover up by any trick, scheme, or device, or make any false, fictitious or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than Five Thousand Dollars (\$5,000) or imprisoned not more than five years in the state penitentiary, or both. Acts 1957, 55th Leg., p. 1425, ch. 493, § 1, amended Acts 1961, 57th Leg., p. 884, ch. 387, § 1.

Emergency. Effective June 17, 1961.

Section 2 of the 1961 amendatory Act provided that venue for prosecution for violation of this Act shall lie in Travis County, Texas.

Stipulated premium insurance companies, see art. 22.18.

*Article 21.47 was not enacted as part of the Insurance Code of 1951.*



**Art. 21.48. Repealed. Acts 1961, 57th Leg., p. 884, ch. 387, § 3. Eff. June 17, 1961**

Art. 21.48, derived from Acts 1957, 55th Leg., p. 1425, ch. 493, § 2, provided penalties for false returns, reports and statements. See, now, art. 21.47.

The repeal by Acts 1961, 57th Leg., p. 884, ch. 387, § 3, was of "Article 21.48 of the Insurance Code."

Section 3 of the 1961 repealing act read as follows:

"Provided, however, the repeal of this Article shall not abate or affect offenses that have arisen under the provisions of this Article prior to the effective date of its repeal."

*Article 21.48 was not originally enacted as part of the Insurance Code of 1951.*

Severability clause, see note under art. 21.47.

## CHAPTER 22—STIPULATED PREMIUM INSURANCE COMPANIES

- Art.
- 22.01. Who May Incorporate [New].
  - 22.02. Shares of Stock [New].
  - 22.03. Application, Charter and Organization [New].
  - 22.04. Amendment of Charter [New].
  - 22.05. Original Examination and Certificate [New].
  - 22.06. Shall File Annual Statement [New].
  - 22.07. May Reinsure; Required Reinsurance [New].
  - 22.08. Dividends; How Paid [New].
  - 22.09. Compensation of Officers and Others; Including Pensions [New].
  - 22.10. To Deposit Funds in Name of Company [New].
  - 22.11. Reserves [New].

Board of insurance directors, powers and duties, see art. 1.01 et seq.

Licensing of agents, see art. 21.01 et seq.

Life, health and accident insurance companies, see art. 3.01 et seq.

- Art.
- 22.12. Impairment of Capital Stock [New].
  - 22.13. Policy Form Approval [New].
  - 22.14. Licensing of Agents [New].
  - 22.15. Direct Reinsurance of Mutual Assessment Companies Regulated by Chapter Fourteen (14) of this Code [New].
  - 22.16. Applicability of Texas Business Corporation Act [New].
  - 22.17. Limitation of Authority [New].
  - 22.18. Other Laws to Govern [New].
  - 22.19. Total or Partial Direct Reinsurance Agreements [New].
  - 22.20. Conversion to Chapter Three (3) Company [New].

Mutual assessment companies, general provisions, see art. 14.01 et seq.

Securities Act, see Vernon's Ann.Civ.St. art. 581—1 et seq.

### Art. 22.01. Who May Incorporate

Section 1. Any five (5) or more, but not to exceed thirty-five (35), citizens of this state may associate themselves for the purpose of forming a stipulated premium life insurance company or a stipulated premium accident insurance company or a stipulated premium life and accident, health and accident, or life, health and accident insurance company. In order to form such a company, the incorporators shall sign and acknowledge its articles of incorporation and file the same in the office of the State Board of Insurance. Such articles shall specify:

1. The name and place of residence of each of the incorporators;
2. The name of the proposed company, which shall contain the words "Insurance Company" as a part thereof, and the name selected shall not be so similar to the name of any other insurance company as to be likely to mislead the public;
3. The location of its home office;
4. The kind or kinds of insurance business it proposes to transact;
5. The amount of its capital stock, not less than Fifteen Thousand Dollars (\$15,000.00); all of which capital stock must be fully subscribed

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and paid up and in the hands of the incorporators before said articles of incorporation are filed. Such stipulated premium insurance company shall not be incorporated unless at the time of incorporation such company is possessed of at least Seven Thousand Five Hundred Dollars (\$7,500.00) surplus, in addition to its capital; provided the amount of such surplus need not be stated in its articles of incorporation. Such minimum capital and surplus shall, at the time of incorporation, consist only of lawful money of the United States or bonds of the United States or of this state or of any county or incorporated municipality thereof, or government insured mortgage loans which are otherwise authorized by this chapter; and shall not include any real estate; provided, however, fifty per cent (50%) of the minimum capital may be invested in first mortgage real estate loans. After the granting of charter, the surplus may be invested as otherwise provided in this Chapter. Notwithstanding any other provisions of this Chapter, such minimum capital shall at all times be maintained in cash or in the classes of investments described in this article;

6. The period of time it is to exist, which shall not exceed five hundred (500) years;

7. The number of shares of such capital stock;

8. Such other provisions not inconsistent with the law as the incorporators may deem proper to insert therein.

Sec. 2. Every stipulated premium company incorporated or transacting business in this state shall be subject to the provisions of this Chapter 22,<sup>1</sup> unless otherwise expressly provided by this Code and no other insurance law of this state shall apply to any corporation chartered under this Chapter and no law hereafter enacted shall apply to stipulated premium companies unless they be expressly designated therein. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

<sup>1</sup> Articles 22.01 to 22.21.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 22.02. Shares of Stock**

The stock of any stipulated premium company shall be of par value. Each share shall be for not less than One Dollar (\$1.00) nor more than One Hundred Dollars (\$100.00). Such stipulated premium companies may issue and dispose of their authorized shares having a par value for money or those notes, bonds and mortgages, of which Art. 22.01 of this Chapter authorizes for minimum capital and such shares shall thereafter be non-assessable. In the event all of the shares of stock, authorized by the original charter or any amendment, are not subscribed and paid for at the time the original charter is granted, or the amendment is filed, then when such remaining shares of stock are sold and issued, the company shall file with the State Board of Insurance, within ninety (90) days after the issuance of such shares, a certificate authenticated by a majority of the directors setting forth the number of shares so issued and the actual consideration received by the company for such shares. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.03. Application, Charter and Organization**

Section 1. As a condition precedent to the granting of a charter of any such company, the incorporators shall file with the State Board of Insurance the following:

1. An application for charter on such form and including therein such information as may be prescribed by the Board;

2. The articles of incorporation as provided in this Code;
3. An affidavit made by two (2) or more of its incorporators that all of the stock has been subscribed in good faith and fully paid for, as required by law, in the amount of not less than Fifteen Thousand Dollars (\$15,000.00) capital and that such company is possessed of at least Seven Thousand Five Hundred Dollars (\$7,500.00) surplus, as required by law, in addition to its capital, which affidavit shall state that the facts set forth in the application and the articles of incorporation are true and correct and that the capital and surplus is the bona fide property of such company. The State Board of Insurance may, in its discretion, at the expense of the incorporators, require other and additional satisfactory evidence of the matters required to be set forth in said affidavit before it shall be required to file the articles of incorporation, application for charter or follow the procedure hereinafter set forth;
4. A charter fee of Twenty-five Dollars (\$25.00).

Sec. 2. When such application for charter, articles of incorporation, affidavit, and charter fee are filed with the State Board of Insurance, the Board may set a date for a public hearing of the same, which date shall be not less than ten (10) nor more than thirty (30) days after the date of notice thereof. The Board shall notify in writing the person or persons submitting such application of the date for such hearing and shall furnish a copy of such notice to the Attorney General of Texas and to all interested parties, including any parties who have theretofore requested a copy of such notice. The Board shall, at the expense of the incorporators, publish a copy of such notice in any newspaper of general circulation in the county of the proposed home office of said company. In all such public hearings on such applications, a record shall be made of such proceedings, and no such application shall be granted except when same is adequately supported by competent evidence. Any interested party shall have the right to oppose or support the granting or denial of such application and may intervene and participate fully and in all respects in any hearing or other proceeding had on any such application. Any such intervenor shall have and enjoy all the rights and privileges of a proper or necessary party in a civil suit in the courts of this state, including the right to be represented by counsel.

Sec. 3. In considering any such application the Board shall, within thirty (30) days after public hearing, determine whether or not:

- (a) The minimum capital and surplus as required by law is the bona fide property of the company;
- (b) The proposed officers, directors and managing executives have sufficient insurance experience ability and standing to render success of the proposed company probable;
- (c) The applicants are acting in good faith.

Sec. 4. If the Board shall determine by an affirmative finding any of the above issues adversely to the applicants, it shall reject the application in writing, giving the reason therefor. Otherwise, the Board shall approve the application and submit such application, together with the articles of incorporation and the affidavit, to the Attorney General for examination. If the application, articles of incorporation, the affidavit and the procedure and action thereon shall be found by the Attorney General to be in accordance with the law of this state, he shall attach thereto his certificate to that effect, whereupon all such documents shall be deposited with the Board. Upon receipt by the Board of such documents so certified by the Attorney General, the Board shall record the same in a book kept

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for that purpose, and upon receipt of a fee of One Dollar (\$1.00), it shall furnish a certified copy of the same to the incorporators, upon which they shall become a body politic and corporate and may proceed to complete the organization of the company, for which purpose they shall forthwith call a meeting of the stockholders who shall adopt by-laws for the government of the company, and elect a Board of Directors, not less than five (5), composed of stockholders; which Board shall have full control and management of the affairs of the corporation, subject to the by-laws thereof as adopted or amended from time to time by the stockholders or directors, and to the laws of this state. The Board of Directors so elected shall serve until the second Tuesday in April thereafter, on which date, annually thereafter, there shall be held a meeting of the stockholders at the home office, and a Board of Directors elected for the ensuing year. If the stockholders fail to elect directors at any such annual meeting, directors may be elected at a special meeting of the stockholders called for that purpose. The directors shall choose a President from their own number, and all other officers shall be chosen in accordance with the by-laws of the company, and none of such officers need be either a director or a stockholder except as required by the by-laws of such company. The duties and compensation of officers of such company shall be in accordance with the by-laws of the company, or, to the extent of the absence of provisions governing the same in the by-laws, then the duties and compensation of officers shall be defined and fixed by the directors. The directors shall keep a full and correct record of their transactions to be open during business hours to the inspection of stockholders. The directors shall fill any vacancy which occurs in the Board or in any office of such company. A majority of the Board shall be a quorum for the transaction of such business. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share of stock fully paid up appearing in his name on the books of the company, which vote may be given in person or by written proxy. The majority of the paid up capital stock at any meeting of the stockholders shall be a quorum.

At any regular or called meeting of the stockholders, they may, by resolution, provide for any lawful amendment to the charter or articles of incorporation; and such amendment, accompanied by a copy of such resolution duly certified by the President and Secretary of the company, shall be filed and recorded in the same manner as the original charter, and shall thereupon become effective. Stockholders representing a majority of the capital stock of any such company may in such manner also increase or reduce the amount of its capital stock. The capital stock shall in no case be reduced to less than the minimum amount of fully paid up capital stock required by applicable provisions of law. A statement of any such increase or reduction shall be signed and acknowledged by two officers of the company and filed and recorded along with the certified copy of the resolution of the stockholders provided therefor in the same manner as the charter or amendment thereto. For any such increase or reduction, the company may require the return of the original certificates as other evidence of stock in exchange for new certificates issued in lieu thereof. The shares of stock of such company shall be transferable on its books, in accordance with law and the by-laws of the company, by the owner in person or his authorized agent. Every person becoming a stockholder by such transfer shall succeed to all rights of the former holder of the stock transferred, by reason of such ownership. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.04. Amendment of Charter**

At any regular or called meeting of the stockholders, they may, by resolution, provide for any lawful amendment to the charter or articles of incorporation; and such amendment, accompanied by a copy of such resolution duly certified by the President and Secretary of the company, shall be filed and recorded in the same manner as the original charter, and shall thereupon become effective. Stockholders representing a majority of the capital stock of any such company may in such manner also increase or reduce the amount of its capital stock. The capital stock may in no case be reduced to less than One Hundred Thousand Dollars (\$100,000.00) except for the purpose of avoiding insolvency as provided in Art. 22.12 of this Chapter, but in such event never less than Fifteen Thousand Dollars (\$15,000.00). A statement of any such increase or reduction shall be signed and acknowledged by two officers of the company and filed and recorded along with the certified copy of the resolution of the stockholders provided therefor in the same manner as the charter amendment thereto. For any such increase or reduction, the company may require the return of the original certificates as evidence of stock in exchange for new certificates transferable on its books, in accordance with this Chapter and the by-laws of the company, by the owner in person or his authorized agent. Every person becoming a stockholder by such transfer shall succeed to all rights of the former holder of the stock transferred, by reason of such ownership. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.05. Original Examination and Certificate**

When the first meeting of the stockholders shall be held and the officers of the company elected, the President or Secretary shall notify the State Board of Insurance and such Board shall thereupon immediately make or cause to be made at the expense of the company a full and thorough examination thereof. If it finds that all of the capital stock of the company amounting to not less than the minimum amount required by law has been fully paid up and is in the custody of the officers either in cash or securities of the class such companies are authorized by this Chapter to invest or loan their funds, it shall issue forthwith to such stipulated premium company a temporary certificate of authority limiting the activities of such stipulated premium company solely to the negotiating and obtaining of a direct reinsurance agreement with a company chartered and doing business under the provisions of Chapter 14<sup>1</sup> of the Insurance Code of Texas on the effective date of this Act. Such certificate of authority shall terminate twelve (12) months from its date, unless renewed by the State Board of Insurance for an additional period of twelve (12) months, provided that such stipulated premium company has not theretofore consummated a direct reinsurance agreement with such a company doing business under the provisions of Chapter 14 of the Insurance Code.

Before such temporary certificate of authority is issued, not less than two (2) officers of such company shall execute and file with the State Board of Insurance a sworn schedule of all the assets of the company exhibited to the Board upon such examination showing the value thereof, together with a sworn statement that the same are bona fide, the unconditional and unencumbered property of the company, and are worth the amount stated in such schedule.

In the event a direct reinsurance agreement be not so consummated within such twelve (12) months period, unless renewed by the State Board of Insurance for an additional period of twelve (12) months, the certificate

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of authority shall automatically terminate and the incorporators of such stipulated premium company shall forthwith surrender its charter to the State Board of Insurance for cancellation.

In the event a direct reinsurance agreement as provided in this Chapter is consummated with such a company doing business under the provisions of Chapter 14 of this Code, the State Board of Insurance shall forthwith and in accordance with the provisions of Art. 22.15 of this Code issue to such a company a regular certificate of authority to transact business in the same territory as previously permitted by such Chapter 14 company whose policies have been directly reinsured by the stipulated premium company. Likewise, such certificate of authority shall provide for the type of insurance business which may be written by the stipulated premium company; if the Chapter 14 company was engaged in the life business or was a burial association, the stipulated premium company shall be entitled and authorized to write life insurance policies as regulated by the provisions of this Chapter, and if the Chapter 14 company was permitted by its charter to write accident insurance, or health and accident, or life, health and accident insurance, then the stipulated premium company shall be so permitted.

As such stipulated premium company thereafter directly reinsures additional Chapter 14 companies chartered and doing business under the provisions of Chapter 14 of the Insurance Code of Texas on the effective date of this Act, its regular certificate of authority shall be amended to extend its territory to include the territory of any other such Chapter 14 company assumed and shall also have authority to write any type of insurance coverage of any such Chapter 14 company whose policies are so assumed by the stipulated premium company. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

<sup>1</sup> Article 14.01 et seq.

Board of insurance commissioners, duty to examine companies, see art. 1.15.

**Art. 22.06. Shall File Annual Statement**

Each stipulated premium company shall after the first day of January of each year and before the first day of April prepare under oath of two (2) of its officers and deposit in the office of the State Board of Insurance a statement accompanied with the fee for filing annual statements of Twenty Dollars (\$20.00) showing the condition of the stipulated premium company on the 31st day of December next preceding, which shall include a statement in detail showing the character of its assets and liabilities on that date, the amount and character of business transacted, monies received, and how expended during the year, and the number and amount of its policies in force on that date and the total amount of its policies in force, except that insureds under family group policies as defined in Art. 22.11, Section 1(b) of this Code will be accounted for only if a reserve is required as to such insured under said Art. 22.11, Section 1(b). The form of such annual statement shall be prepared and determined by the State Board of Insurance. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.07. May Reinsure; Required Reinsurance**

Section 1. Any stipulated premium company may reinsure on an individual indemnity policy basis with any legal reserve company authorized to write life, health and accident insurance in this state having a capital and surplus or surplus of at least Two Hundred Thousand Dol-

lars (\$200,000.00) any risk or part of a risk which the stipulated premium company may issue or assume, and upon such reinsurance proper credit therefor may be taken against the aggregate reserves required by Art. 22.11 of this Chapter.

Sec. 2. Until the surplus of any stipulated premium company is at least Fifty Thousand Dollars (\$50,000.00), no such stipulated premium company shall insure any life for more than One Thousand Dollars (\$1,000.00) in the event of death from natural causes nor more than Two Thousand Dollars (\$2,000.00) in the event of death from accidental causes, unless such stipulated premium company reinsures the amount of coverage above One Thousand Dollars (\$1,000.00) in the event of natural death and the amount of coverage above Two Thousand Dollars (\$2,000.00) in the event of accidental death with a legal reserve company authorized to write life, health and accident insurance in this state having a capital and surplus or surplus of at least Two Hundred Thousand Dollars (\$200,000.00); provided, however, the provisions of this Section of this Art. 22.07 shall not apply to policies of insurance assumed by a stipulated premium company pursuant to the provisions of Art. 22.15 of this Chapter. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

#### Art. 22.08. Dividends; How Paid

No stipulated premium company shall declare or pay any dividends to its stockholders except from the profits made by said company not including surplus arising from the sale of stock, and shall pay no dividends except stock dividends until: (a) the capital of said stipulated premium company shall be at least One Hundred Thousand Dollars (\$100,000.00); (b) the deficiency reserve as permitted by this Chapter has been retired; and (c) capital of said stipulated premium company is maintained at not less than One Hundred Thousand Dollars (\$100,000.00). Thereafter cash dividends may be paid in accordance with this Chapter. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

#### Art. 22.09. Compensation of Officers and Others; Including Pensions

(a) No stipulated premium company shall pay any salary, compensation or emolument to any officer, trustee, or director thereof, nor any salary, compensation or emolument amounting in any year to more than Ten Thousand Dollars (\$10,000.00) to any person, firm or corporation, unless such payment be first authorized by a vote of the Board of Directors of such company, or by a committee of such Board charged with the duty of authorizing such payments. The limitation as to time contained herein shall not be construed as preventing any stipulated premium company from entering into contracts with its agents for the payment of renewal commissions.

(b) The stockholders of any such stipulated premium company may authorize the inauguration of a plan or plans for the payment of pensions, retirement benefits or group insurance to its officers and employees. The stockholders may delegate to the Board of Directors authority and responsibility for the preparation, inauguration, putting into effect, final approval and administration of any such plan or plans or any amendments thereof. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

#### Art. 22.10. To Deposit Funds in Name of Company

Any director, member of a committee, or officer, or any clerk of a stipulated premium company, who is charged with the duty of handling or

investing its funds, shall not deposit or invest such funds, except in the corporate name of such company; shall not borrow the funds of such company; shall not be interested in any way in any loan, pledge, security or property of such company, except as stockholder; shall not take or receive to his own use any fee, brokerage, commission, gift or other consideration for, or on account of, a loan made by or on behalf of such company. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.11. Reserves**

Section 1. (a) Each stipulated premium individual life policy shall be reserved and each stipulated premium company shall maintain reserves on such individual life policies in accordance with any reserve standards adopted by the company and approved by the State Board of Insurance, provided such reserves are at least equal, in the aggregate, to reserves based on the 1956 Chamberlain Reserve Table with interest not to exceed three and one-half per cent ( $3\frac{1}{2}\%$ ) per annum. Any stipulated premium company is hereby authorized to use the 1956 Chamberlain Reserve Table.

(b) Family group life policies, upon which a group premium is charged and under which there is a varying benefit dependent upon the sequence of deaths, shall be reserved and each stipulated premium company shall, at the election of the stipulated premium company, maintain reserves on such family group policies in either one of the following methods of calculation: (1) The reserves shall be equal to the reserves which would be required, in accordance with the provisions of this Section on individual life policies on the lives of the then living two (2) oldest members of each such family group; the amount of insurance for such two (2) members shall be based on the assumption that the elder of such members will be the first to die; or (2) The reserves shall be equal to the reserves which would be required, in accordance with the provisions of this Section on individual life policies on the lives of the then living members of such family group; the amount of insurance for each such member of the family group shall be based on the assumption that each such member will be the first to die. Each such stipulated premium company shall be permitted to select the method it shall use to calculate such reserves.

Sec. 2. All health, accident and sickness policies shall be reserved by the stipulated premium company and each stipulated premium company shall maintain reserves on such policies in the same manner as is required by the companies writing such coverage under the provisions of Chapter 3 of the Insurance Code of Texas, except that an unearned premium reserve shall not be required to be maintained during the first policy year.

Sec. 3. (a) On all policies of a Chapter 14 company assumed under a direct reinsurance agreement as in this Chapter provided by a stipulated premium company, such stipulated premium company shall at the effective date of such reinsurance agreement calculate the amount of the required reserves in accordance with the provisions of this Article and shall also calculate and determine the amount of the net assets transferred to the stipulated premium company under such reinsurance agreement. In the event the net assets of the Chapter 14 company are insufficient to equal the amount of the required reserve, the difference shall be designated and carried as a deficiency reserve. Such deficiency reserve shall be allowed without creating the insolvency of the stipulated premium company, but the stipulated premium company must reduce said deficiency so determined by at least ten per cent (10%) thereof during each year



following the date of the reinsurance agreement, but commencing such reduction as to the next succeeding annual statement filing date so that at the date of the eleventh annual statement filing date after the effective date of said reinsurance agreement, the deficiency reserve will be fully paid and satisfied, together with assumed rate of interest thereon; provided, however, that such required reduction in the deficiency reserve shall never exceed the cumulative aggregate amount of ten per cent (10%) per annum.

(b) In the event the annual required reduction of the deficiency reserve is not accomplished as of December 31st of each year involved, the Board of Directors of the stipulated premium company shall by appropriate action increase rates by advancing the age of the insureds at issue date, or by some other equitable rate adjustment, so as to correct the failure to reduce the amount of the deficiency. In the event of the failure of the Board of Directors of the stipulated premium company to so act within thirty (30) days following the calculation of reserves, the stipulated premium company shall be dealt with in accordance with this Chapter as if it were insolvent.

Sec. 4. The State Board of Insurance, as soon as practical, in each year, shall compute or cause to be computed the reserve liability of each stipulated premium company which has outstanding policies of insurance. In making such computations, the said Board may use group methods and approximate averages for fractions of a year or otherwise. Such reserve liability shall be computed upon the net premium basis in accordance with the reserve table and interest rate adopted by the stipulated premium company and approved by the State Board of Insurance and such reserve liability may be calculated on not more than a one-year preliminary term basis with allowance for the permissive deficiency reserve provided for in this Chapter 22.

Sec. 5. Having determined the required reserve on all policies in force, but excluding the permissive deficiency reserves authorized by this Chapter 22, the State Board of Insurance shall require that the stipulated premium company have in securities of the class and character required by the laws of this state the amount of said reserves less the permissive deficiency reserves after all the debts and claims against it and the minimum capital required by this Chapter have been provided.

Sec. 6. In the event the stipulated premium company does not have the required reserves, less any permissive deficiency reserve, plus the minimum capital required by this Chapter, the Board of Directors of the stipulated premium company shall by appropriate action increase rates on policies in force by advancing the age of the insureds at issue date or by some other equitable rate adjustment so as to correct such reserve inadequacy. In the event of the failure of the Board of Directors of the stipulated premium company to so act within thirty (30) days following the calculation of reserves as of the date in this Chapter provided, the stipulated premium company shall be dealt with in accordance with this Chapter as if it were insolvent under the provisions of Art. 22.12 of this Chapter.

Sec. 7. Premiums charged on all life policies issued by stipulated premium companies shall be at least equal to the renewal net premium calculated in accordance with the reserve standard adopted by the stipulated premium company and approved by the State Board of Insurance. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.12. Impairment of Capital Stock**

Any stipulated premium company transacting business within this state, whose capital stock shall become impaired to the extent of thirty-three and one-third per cent ( $33\frac{1}{3}\%$ ) thereof, computing its liabilities in the manner provided for in this Chapter of this Code, shall make good such impairment within sixty (60) days by: (a) a reduction of its capital stock (provided such capital stock shall in no case be less than the minimum amount required of a stipulated premium company by this Chapter); or (b) by rate adjustment where permitted by policy contract; or (c) by both such methods; and failing to make good such impairment within said time shall forfeit its right to write new business in this state until said impairment shall have been made good. The State Board of Insurance may apply to any court of competent jurisdiction for the appointment of a receiver to wind up the affairs of such company when its capital stock shall become impaired to the extent of fifty per cent (50%) thereof; computing its reserve liability in the manner provided by this Chapter for the computation of such reserve liability. No stipulated premium company shall write new business unless it is possessed of the minimum capital required by this Chapter 22, except to the extent it may be otherwise expressly authorized by this Chapter of this Code. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.13. Policy Form Approval****Section 1. Life Policy Forms:**

(a) Every policy of life insurance issued by a stipulated premium company shall state on the front page the amount of death benefit to be paid, and the circumstances or conditions under which it shall be paid. An application for each policy must be signed by the applicant, unless the applicant is a minor, in which event the application may be signed by a parent or guardian. The policy, or the policy and the application if a copy of the application is attached to the policy, shall constitute the entire contract. If the policy is to provide that misstatement as to the health or physical condition of the applicant may void the policy within the contestable period, the application shall so state in not less than ten (10) point type in language approved by the State Board of Insurance. All statements in the application shall in the absence of fraud be regarded as representations and not warranties. All conditions of the policy must be stated therein. Each policy must provide that it shall be incontestable, after having been in force during the lifetime of the insured for a period of two (2) years from date of issue, except for nonpayment of premiums. It shall also provide that in case the age of the insured is misstated, the amount of insurance shall be that which the premium actually paid would purchase at the correct age, based on premium rates in force at the time of the death of the insured. No policy nor the application therefor shall contain language or be in such form as to mislead the applicant or policyholder as to the type of insurance afforded nor as to his rights or benefits.

(b) It shall be unlawful for any stipulated premium company to assume liability on a life insurance risk on any one life in an amount in excess of Five Thousand Dollars (\$5,000.00).

(c) Every life policy form must be approved by the State Board of Insurance as to form and language before it is used by the stipulated premium company.

(d) It shall be unlawful for any stipulated premium company to issue any paid up or endowment type policy.

**Sec. 2. Health, Accident, Sickness and Hospitalization Policies.**

(a) All health, accident, sickness and hospitalization policies shall be issued in accordance with the provisions of Art. 3.70, of Chapter 3 of this Code.

(b) All health, accident, sickness and hospitalization policies issued, reinsured or assumed by a stipulated premium company shall contain therein a premium redetermination clause so as to permit a rate readjustment by action of the Board of Directors of the stipulated premium company.

**Sec. 3. Readjustment of Premiums.**

Each stipulated premium company shall provide in all policies of insurance issued, reinsured, or assumed by it for an increase or readjustment, not inconsistent with the provisions of this Chapter, of the rates of premium on any such insurance contracts, to be effectuated by resolution of its Board of Directors, whenever in their discretion such action becomes necessary. The Board of Directors shall have power in making any comprehensive readjustment of any class or classes of its policies, that any insured required to pay an increased premium may, at his option, in lieu thereof, or in combination therewith, consent to a reduction of the corresponding insurance benefits proportionate to the value of the increased premiums. Such requirement as to such policy provisions shall not apply to policy forms under which the premium for life insurance requires the payment of a premium for life insurance alone sufficient to maintain reserves at least equal to those computed on the basis of the 1958 Commissioners Standard Ordinary Table of Mortality with interest not to exceed three and one-half per cent (3½%) per annum and upon which the right to adjust rates has been relinquished by the stipulated premium company, provided that the stipulated premium company is possessed of free and unencumbered surplus in at least the amount of Fifty Thousand Dollars (\$50,000.00) at the date of issuance of each such policy.

**Sec. 4. Designation of Beneficiaries.**

The designation of all beneficiaries under policies issued by stipulated premium companies shall comply with the provisions of Art. 3.49-1 and Art. 3.49-2 of Chapter 3 of this Code.

**Sec. 5. Reductions.**

Any policy may provide for reduced benefits when death or injury occurs while the insured is engaged in military, naval, aerial service or aerial flight in time of peace or war; or in case of death of the insured by his own hand while sane or insane; or while engaged in certain hazardous occupations to be named in the policy. Attention shall be called on the front page of the policy to any reduction or exclusion of benefits provided in any life policy, and the circumstances or conditions under which reduction or exclusion of benefits are applicable shall be plainly stated in the policy.

**Sec. 6. Certain Words Prohibited from Appearing on Policies.**

No policy of insurance shall be approved for issuance of a stipulated premium company which shall contain thereon the words, 'Approved by the State Board of Insurance,' or words of a similar import or nature, and it shall be unlawful for any stipulated premium company to ever issue a policy containing such words or words of a similar import or nature. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

Accident and sickness insurance, see art. 3.70-1 et seq.

Life insurance and annuity contracts with minors over fourteen, see art. 3.49-2.

Life insurance; designated beneficiaries or owners; insurable interest, see art. 3.49-1.

**Art. 22.14. Licensing of Agents**

All agents of stipulated premium companies shall be licensed in accordance with the provisions of Art. 21.07 of Chapter 21 of this Code. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.15. Direct Reinsurance of Mutual Assessment Companies Regulated by Chapter Fourteen (14) of this Code**

Section 1. Any burial association, local mutual aid association, state-wide mutual assessment corporation, or any other similar concern by whatsoever name or class designated, that is regulated by the provisions of Chapter 14 of this Code, may directly reinsure itself into a stipulated premium company chartered under the provisions of this Chapter.

Sec. 2. When it shall be determined by a majority vote of the Board of Directors of the company or association regulated by the provisions of Chapter 14 to submit the proposed direct reinsurance agreement to the members of the company or association regulated by the provisions of Chapter 14 of this Code, said Board of Directors shall prepare in detail plans for making such reinsurance, and such reinsurance agreement shall be submitted to the State Board of Insurance. The State Board of Insurance shall determine whether such reinsurance agreement complies with the provisions of this Chapter, and if such reinsurance agreement be in compliance with the provisions of this Chapter, the State Board of Insurance shall approve the same for submission to the members of the company or association regulated by the provisions of Chapter 14 of this Code.

Sec. 3. After approval of the State Board of Insurance, the Board of Directors of the company or association regulated by the provisions of Chapter 14 of this Code shall, in accordance with the by-laws, call a meeting of its membership, and shall mail to each member a copy of the proposed direct reinsurance agreement and enclose therewith a copy of the notice of membership meeting to be held not earlier than fifteen (15) days after the date of mailing of the notice and reinsurance agreement.

Sec. 4. Such meeting of the membership shall be held for the purpose of ratification or rejection of the direct reinsurance agreement. Members may vote in person, by proxy to whomever the member may designate or by mail. All votes shall be cast by ballot. The Chairman of such meeting shall supervise and direct the method of procedure of said meeting and shall appoint an adequate number of inspectors to conduct the voting at said meeting; said inspectors shall have full power and authority to determine all questions concerning the verification of the ballots, the qualifications of the voters, the canvassing of the ballots and the ascertainment of the validity thereof. At the conclusion of said meeting, the inspectors shall certify under oath the result thereof to the State Board of Insurance and to the assuming stipulated premium company. A two-thirds ( $\frac{2}{3}$ rds) majority vote cast by those participating in said meeting in person, by proxy or by ballot shall be sufficient and adequate for the purpose of ratification of such reinsurance agreement.

Sec. 5. Provided such reinsurance agreement be approved by the members in accordance with the provisions of this Art. 22.15, the company or association regulated by the provisions of Chapter 14 of this Code shall cease to do business and all of its assets be transferred to the assuming stipulated premium company and thereupon become its sole and exclusive property. All policy liability will be assumed by the stipulated premium company in accordance with the provisions of said reinsurance agreement;

all other liabilities shall be assumed by the stipulated premium company in accordance with the method and mode of payment thereof. The company or association regulated by the provisions of Chapter 14 of this Code shall thereafter forthwith surrender its certificate of authority and charter to the State Board of Insurance, which shall dissolve the same, and the company's or association's corporate existence shall cease.

Sec. 6. Such reinsurance agreement shall provide that the stipulated premium company will assume the policies of the company or association regulated by the provisions of Chapter 14 of this Act subject to the provisions of this Chapter. Immediately following approval by the membership of such reinsurance agreement, the stipulated premium company shall issue to each such member a certificate of assumption setting forth the terms of the assumption, and the reserve and interest table under which such policy is assumed. The agreement shall also provide for the calculation at the effective date of such reinsurance agreement of the following: (a) The amount of the net assets, both mortuary and expense funds, of the company or association regulated under the provisions of Chapter 14 of this Code, which are to be transferred to the stipulated premium company after the payment of all liabilities; and (b) The amount of the required reserves to be established under the reserve and interest table used in such reinsurance agreement; and (c) The amount of the deficiency reserve, if any, resulting from the calculations of items (a) and (b) of this Section 6. Such deficiency reserve shall be permitted in accordance with the provisions of Art. 22.11 of this Chapter, but must thereafter be reduced in compliance with said Art. 22.11, or said reinsurance agreement may provide for immediate rate adjustments, in accordance with accepted actuarial practices and standards, so as to eliminate said deficiency at the time of reinsurance or during the period allowed in Art. 22.11 for curing of the said reserve deficiency. The sum total of the net assets of the company or association regulated by the provisions of Chapter 14 of this Code shall be apportioned for reserve calculation purposes among the members assessed as follows: The percentage of the whole of the net assets allotted to any individual member shall be calculated with the amount of the required reserve for such individual insured under such reinsurance agreement as the numerator and the total of all of the required reserve for all the members under such reinsurance agreement as the denominator.

Each such reinsurance agreement shall also provide that each policyholder who is dissatisfied with such reinsurance agreement and who does not desire to accept the assumption certificate offered by the stipulated premium company, shall be entitled to receive, if he shall so request in writing to the stipulated premium company within sixty (60) days following the mailing of the assumption certificate, the amount of the reserve under his policy reduced by the deficiency reserve, if any, as applicable to such policy.

Sec. 7. Within ninety (90) days following such membership meeting, all facts in connection therewith, including the accounting thereof and the calculation of the required reserves, shall be submitted under oath to the State Board of Insurance.

Sec. 8. Such reinsurance contract shall become binding upon both companies parties hereto at the effective date thereof immediately following the ratification by the membership of the company or association regulated under the provisions of Chapter 14 of this Code.

Sec. 9. In the event the premiums charged on any life policy assumed by the stipulated premium company shall be less than the renewal

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net premium calculated in accordance with such reserve standard adopted by the reinsurance agreement, the rate shall be readjusted to an amount at least equal to the renewal net premium calculated in accordance with the reserve standard adopted by such reinsurance agreement based upon the insured's age at issue by the Chapter 14 company.

Sec. 10. The words "net assets" as used in this Chapter shall mean the funds of the company available for the payment of its obligations in this state, including uncollected premiums not more than three months past due after deduction from such funds all unpaid losses and claims and claims for losses and all other debts.

Sec. 11. Any Section or provision of this Act notwithstanding, no life insurance rates may be adjusted without the advanced approval of the State Board of Insurance, on notice to the policyholder. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.16. Applicability of Texas Business Corporation Act**

Insofar as the same are not inconsistent with or contrary to any applicable provision of this Chapter or any other insurance law applicable to stipulated premium companies, or any amendments thereto, the provisions of the Texas Business Corporation Act<sup>1</sup> shall apply to and govern stipulated premium companies, provided, however, that wherever said Texas Business Corporation Act imposes some duty, authority, responsibility, power; or some act is vested in, required of, or is to be performed by the Secretary of State, such is hereby vested in, required of, or shall be performed by the State Board of Insurance. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

<sup>1</sup> V.A.T.S. Bus. Corp. Act, art. 1.01 et seq.

**Art. 22.17. Limitation of Authority**

No stipulated premium company may ever use in its advertising or representation of its policies the words: "legal reserve company," "stock company," "old line legal reserve company," or any other words of like import whereby the public might be led to believe that policies of stipulated premium companies provide non-forfeiture values. All stipulated premium company policies and application forms must contain on the face thereof and immediately after the name of the company, the following language: "A Stipulated Premium Company." Each stipulated premium company policy shall provide on the front thereof that the premium is subject to readjustment, unless such policy is not subject to a premium readjustment under the provisions of Section 3 of Art. 22.13 of this Chapter. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.18. Other Laws to Govern**

Section 1. The following Articles of this Code, to-wit: Art. 1.14, Art. 1.15, Art. 1.16, Art. 1.19, Art. 1.24, Art. 3.13, Art. 3.39, Art. 3.40, Art. 3.61, Art. 3.63, Art. 3.67, Art. 21.21, Art. 21.25, Art. 21.26, Art. 21.28, Art. 21.32, Art. 21.39, Art. 21.45, and Art. 21.47, shall apply to and govern stipulated premium companies and each company shall comply with the provisions thereof.

Sec. 2. Stipulated premium companies shall be regulated by the Texas Securities Act, same being Acts 1957, 55th Legislature, pages 575 et seq., Chapter 269,<sup>1</sup> and shall pay premium taxes in like manner, as a company chartered and doing business under the provisions of Chapter 3 of this Code.

Sec. 3. Until such time as a stipulated premium company shall have and be possessed of capital of at least One Hundred Thousand Dollars (\$100,000.00) and free and unencumbered surplus in at least the amount of One Hundred Thousand Dollars (\$100,000.00), it shall be unlawful for any stipulated premium company to make a public offering, as defined in the Texas Securities Act, of any of its capital stock. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

<sup>1</sup> Vernon's Ann.Civ.St., art. 581—1 et seq.

#### Art. 22.19. Total or Partial Direct Reinsurance Agreements

Section 1. Total or partial direct reinsurance agreements may be made and entered into between stipulated premium companies chartered under the provisions of this Chapter provided: (a) The assuming company is authorized to transact the kinds of insurance provided by the policies assumed; and (b) No total direct reinsurance agreement shall be made until the contract therefor has been submitted to and approved by the State Board of Insurance as protecting fully the interests of all the policyholders assumed.

Sec. 2. Any stipulated premium company may enter into total or partial direct reinsurance agreements with any legal reserve life insurance company lawfully doing business in this state upon compliance with the following terms and conditions:

(a) Such reinsurance agreement must be approved by a majority vote of the respective Boards of Directors of the respective companies parties thereto.

(b) In the event of the direct reinsurance of health, accident or sickness policies, the assuming company must assume the exact policy obligations of the stipulated premium policies; in the event the stipulated premium policy is non-cancellable or guaranteed renewable the assuming company may include in its assumption certificate a premium redetermination clause in lieu of the clause contained in the policy by reason of Art. 22.13 of this Chapter.

(c) In the event of the direct reinsurance of life policies or a combination of life and health, accident or sickness, such reinsurance agreement shall contain provisions in compliance with the following:

(1) In the event the assuming legal reserve company issues an assumption certificate providing whole life coverage for the life benefit, the policyholder shall not have the right to receive his individual reserve in cash by surrendering the assumption certificate;

(2) In the event the reserves and premium under the stipulated premium policy are inadequate to provide whole life coverage under the legal reserve assumption certificate and a term coverage assumption is afforded, the following options shall be afforded to each policyholder affected thereby so that he may select any one of the following: (a) The amount of the individual reserve, reduced by the deficiency reserve, if any, shall be paid in cash to the legal owner and holder of the policy upon its surrender and if the same be requested within sixty (60) days following mailing of notice of the options afforded to the policyholder; (b) An assumption certificate of another stipulated premium company chartered and doing business pursuant to the provisions of this Chapter; or (c) The legal reserve company's certificate of assumption predicated upon term coverage, but which term coverage shall be renewable for the life of the insured without evidence of insurability and the rate for which shall be based on the legal reserve table selected by the assuming company at the attained age of the insured at the date of the renewal increased by an appropriate expense factor. Each affected policyholder shall have the right to exercise his

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option within sixty (60) days following the date the assumption certificate of the legal reserve company is mailed to the policyholder.

In the event the term coverage is afforded by the legal reserve company, the individual reserve, less the amount of the deficiency, if any, of each policyholder shall be used by the assuming company either: (a) As a reserve credit to permit the legal reserve assumption certificate to be back dated as far as the reserve credit will permit; or (b) As an annuity to reduce the required premium during the initial period of the term coverage.

(d) Each such reinsurance agreement shall be submitted in advance to and approved by the State Board of Insurance as to compliance with the provisions of this Section of this Art. 22.19 prior to the same becoming effective.

Sec. 3. In the event of a total direct reinsurance agreement under the provisions of Section 1 or Section 2 of this Art. 22.19, the reinsured stipulated premium company shall forthwith surrender its certificate of authority to the State Board of Insurance and proceed by action of its stockholders and Board of Directors to effect its dissolution.

Sec. 4. All partial direct reinsurance agreements shall be filed with the State Board of Insurance prior to the effective date of said agreement and the assuming company shall furnish an assumption certificate to the policyholder to be attached to his policy. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.20. Conversion to Chapter Three (3) Company**

At such time that a stipulated premium company shall be possessed with at least One Hundred Thousand Dollars (\$100,000.00) in capital and at least One Hundred Thousand Dollars (\$100,000.00) in free and unencumbered surplus and additionally shall have on hand sufficient reserves so as to reserve all of its policies under the provisions of Chapter 3 of this Code, the stockholders of the stipulated premium company may convert the stipulated premium company into a legal reserve company under the provisions of Chapter 3 of this Code. Within thirty (30) days following such conversion, the converted company shall furnish to each and every policyholder a certificate of assumption whereby the policy liability is assumed by the converted company and which said assumption certificate shall contain all of the provisions required by Chapter 3 of this Code. In consummating said conversion, each and every of the requirements of Chapter 3 of this Code shall be complied with and the State Board of Insurance shall approve such conversion only after determining that said converted company has complied with said Chapter 3 of this Code. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

**Art. 22.21. Formation of Additional Associations Prohibited**

From and after the effective date of this Act, no local mutual aid association or local mutual burial association may be organized under and pursuant to the provisions of Art. 12.05 of the Insurance Code of Texas. The provisions of this Art. 22.21 shall not, however, be applicable to: (1) any company or association which holds a temporary or other certificate of authority at the effective date of this Act; or (2) any company or association for which an application to the Commissioner of Insurance or the State Board of Insurance for a temporary or other certificate of authority is pending at the effective date of this Act. Added Acts 1961, 57th Leg., p. 345, ch. 180, § 1.

Local mutual aid associations, see art. 12.01 et seq.



## TITLE 81—JAILS

Art.

5115a. Counties of less than 20,000; joint financing, construction, maintenance and operation with cities; bonds [New].

Art. 5115a. Counties of less than 20,000; joint financing, construction, maintenance and operation with cities; bonds

Section 1. That any county having less than 20,000 population according to the last or any succeeding Federal Census and any city or cities therein located are hereby authorized and empowered to finance, construct, maintain and operate jail, jails or jail facilities for the joint and mutual use of such county and city or cities. The Commissioners Court of any such county and the governing body of any such city or cities are hereby authorized and empowered to enter into contracts between any such county or city determining the obligations of each for the financing, construction, maintenance and operation of such jail, jails, or jail facilities, provided that the term of any such contract for the maintenance and operation of such jail, jails or jail facilities shall not exceed twenty (20) years. Such contracts where not in conflict with the provisions of the Constitution of the State of Texas may provide for the custody, control and operation of such jail, jails or jail facilities, including providing for a jailer to be custodian of such jail, jails or jail facilities, which said jailer shall be under the control and supervision of the sheriff of such county and shall be appointed by the sheriff with the advice and consent of the Commissioners Court and the governing body of such city or cities; providing that the salary for such jailer shall be in an amount as may be now or hereafter authorized by law for a deputy sheriff of such county and may be paid by such city or cities and by such county out of the Officers Salary Fund in such proportions as may be agreed upon by contract as herein provided. Where not expressly provided to the contrary herein, any such jailer, his rights, duties, salary and tenure of office shall be controlled by the laws governing deputy sheriffs.

Sec. 2. Such county and city or cities are hereby authorized to issue and sell bonds as now provided by law and to expend the proceeds for the purposes herein authorized, but any such bonds shall be and remain the sole obligation of the authority issuing such bonds. Any funds of such county and city or cities derived from sale of such bonds shall remain in the possession and control of the issuing authority until expended by such authority as herein authorized.

Sec. 3. This Act shall be cumulative of all other laws pertaining to county and city jails; provided, however, that to the extent that the provisions of this Act may be in conflict with the provisions of any other law, the provisions of this Act shall take precedence and prevail. Acts 1961, 57th Leg., p. 1023, ch. 450.

Effective 90 days after May 29, 1961; date of adjournment. Commissioners courts, construction and repair of jails, see arts. 2351, 2370b.

Jail and other bonds, see art. 718 et seq.

## TITLE 82—JUVENILES

Art.	Art.	
5138b. Parental homes and schools for delinquents in counties of 900,000 or more inhabitants [New].	5139JJ. Victoria County Juvenile Board [New].	
5139E-1. Juvenile Boards [New].	5139KK. Travis County Juvenile Board [New].	
5139H-5. Juvenile boards in 36th and 156th Judicial Districts [New].	5139LL. Galveston County Juvenile Board [New].	
5139GG. Howard County Juvenile Board [New].	5139MM. Dawson County Juvenile Board [New].	
5139HH. Morris County Juvenile Board [New].	5139NN. Coleman County Juvenile Board [New].	
5139II. Juvenile boards in Comal, Hays, Caldwell, Austin and Fayette counties [New].		

Art. 5138b. Parental homes and schools for delinquents in counties of 900,000 or more inhabitants

## Board of managers; term; powers and duties

Section 1. In all counties of this state having a population of nine hundred thousand (900,000) or more, according to the last preceding Federal Census, in which a parental home and school for dependent and delinquent children shall have been established under the provisions of Article 5138a of the Revised Civil Statutes of Texas, the Commissioners Court of said county may appoint a board of managers of five citizens of the county who shall serve for a period of two years. Said board of managers will have the authority to receive all funds provided by the county for the maintenance of said home and school and shall have the general management and control of said home and school, the grounds, buildings, offices, and employees thereof, of the inmates therein and of all matters relating to the government, discipline and conduct thereof, and shall make such rules and regulations as may seem to be necessary for carrying out the purposes of said home and school.

## Operation and maintenance

Sec. 2. The Commissioners Court shall have the authority to provide funds for the operation and maintenance of said home and school, and it shall be lawful for the Commissioners Court to appropriate from the General Fund of the county such sum as may be necessary to operate and maintain such home and school.

## Acceptance of grants, devises and donations

Sec. 3. Subject to the approval of the County Commissioners Court, said board shall have power and authority to accept and hold in trust for said home and school any grant or devise of land or any gift or bequest of money or other personal property, or any donation to be applied for the benefit of said home and school and to apply same in accordance with the terms of such gift.

## Instructional and educational work

Sec. 4. The board of managers of said home and school shall have authority to arrange with the Board of Education of the county for instructional work in said home and school, and it shall be the duty of the Board of Education of the county to cooperate with said board of managers in carrying out the purpose of said home and school, and said Board of

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Education of the county is hereby authorized to appropriate such funds as may be necessary for employing teachers and carrying on the necessary educational work in said home and school. Acts 1961, 57th Leg., p. 91, ch. 53.

Emergency. Effective March 30, 1961.

#### Art. 5139. County Juvenile Board

Cumulative effect of art. 5139E—1, see art. 5139E—1, § 2.

#### Art. 5139E—1. Juvenile Boards

(1) At the effective date of this Act there is hereby established and constituted a three-member Juvenile Board in each of the counties of this State coming within the purview of the provisions of paragraph (2) hereof, to be composed of the County Judge of the county and the District Judges of the Judicial Districts therein. The County Judge of said county shall be chairman of such Board and its chief administrative officer. The official title of the Board in said county shall be the name of the county followed by the words: 'County Juvenile Board.'

(2) The Juvenile Board created in the foregoing Section is established and constituted in each county wherein there are two (2) District Courts, one of which is composed of one (1) county only, the other of which is composed of two (2) counties; and in such one-county Judicial District there is located a city with a population of more than fifty thousand (50,000) according to the last preceding Federal Census.

(3) As compensation for the added duties hereby imposed upon members of such Juvenile Board, each member thereof may, if approved by the Commissioners Court of the county, be compensated by an annual salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) payable in twelve (12) equal monthly installments; and such compensation shall be in addition to all other compensation now provided for or allowed County and District Judges by law, and shall be paid out of the general fund of the county. Added Acts 1961, 57th Leg., 1st C.S., p. 201, ch. 61, § 1.

Effective 90 days after Aug. 8, 1961 date of adjournment.

Section 2 of the Act of 1961 read as follows: "This Act shall be construed as being cumulative with the provisions of Article 5139, Revised Civil Statutes of Texas,

1925, as amended, and all laws and parts of laws in conflict herewith are hereby expressly repealed."

#### Art. 5139H—5. Juvenile boards in 36th and 156th Judicial Districts

Section 1. In each county comprising the 36th Judicial District and in each county comprising the 156th Judicial District, the Judge of the District Court, together with the County Judge of the county, shall constitute the Juvenile Board of such county. The members composing each County Juvenile Board within the Judicial Districts may each be allowed additional compensation of not more than Twelve Hundred Dollars (\$1200) per annum, which shall be paid in twelve (12) equal installments out of the General Fund of each county, such additional compensation to each member of the Board to be fixed by the Commissioners Court of each county; and provided that the compensation allowed County Judges hereunder shall not be counted as fees of office.

Sec. 2. This Act shall be cumulative of existing laws relating to compensation of Judges of the District Courts and County Judges. Acts 1961, 57th Leg., p. 259, ch. 135.

Emergency. Effective May 15, 1961.

**Art. 5139GG. Howard County Juvenile Board**

Section 1. There is established a juvenile board for Howard County to be called the "Howard County Juvenile Board," which shall be composed of a total of seven (7) non-salaried members, the County Judge of Howard County being one (1) member and chairman of such Board, and being further composed of two (2) members appointed by the Howard County Commissioners Court, two (2) members appointed by the Big Spring City Commission, and two (2) members appointed by the Board of Trustees of the Big Spring Independent School District. The terms of office of the members of this Board appointed by the Commissioners Court, city commission, and school district shall be for alternating terms of two (2) years each. The terms of three (3) of the appointed members (one (1) each from the city, county, and school district) will expire on December 31st of each odd-numbered year, and the terms of the remaining three (3) appointed members (one (1) each from the city, county, and school district) will expire on December 31st of each even-numbered year. (It is understood that the original appointments of three (3) members will expire on December 31, 1961, and that the remaining three (3) appointments will expire on December 31, 1962.)

Sec. 2. The Howard County Juvenile Board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. If the Board determines that it is desirable to have a juvenile officer and/or officers for Howard County, it may appoint a juvenile officer and/or officers for a term not to exceed two (2) years, at the end of which term, the Board may appoint another juvenile officer or officers for succeeding terms not exceeding two (2) years for each term. No person or persons shall be disqualified from serving as juvenile officer for the reason that he has previously served in that capacity.

Sec. 3. The person or persons appointed as juvenile officer shall be a person trained, qualified, and experienced in the field of juvenile and parental counseling. The juvenile officer shall have all the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto, and shall be directly accountable to the juvenile board. The juvenile officer shall receive an annual salary to be fixed by the Board, and shall receive an annual allowance for expenses in an amount to be determined by the Board.

Sec. 4. The commissioners court of Howard County may enter into an agreement with the city commission of Big Spring and the Board of Trustees of the Big Spring Independent School District to provide the necessary funds for payment of the salary and expenses of the juvenile department. The agreement shall provide that the commissioners court of Howard County pay forty per cent (40%); that the city commission of Big Spring pay forty per cent (40%); and that the Board of Trustees of the Big Spring Independent School District pay twenty per cent (20%) of the funds necessary for the payment of the salary or salaries and other expenses of the juvenile department. Acts 1961, 57th Leg., p. 102, ch. 56.

Emergency. Effective March 30, 1961.

Title of Act:

An Act establishing the Howard County Juvenile Board; and declaring an emergency. Acts 1961, 57th Leg., p. 102, ch. 56.

**Art. 5139HH. Morris County Juvenile Board**

Section 1. There is hereby established the Morris County Juvenile Board, which shall be composed of the county judge of Morris County and

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the judge of each judicial district which includes Morris County. The judge of the court which is designated as the juvenile court for Morris County shall be chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon members of such juvenile board, each member thereof may be allowed additional compensation not to exceed Eighteen Hundred Dollars (\$1,800) per year, to be fixed by the Commissioners Court of Morris County and paid monthly in twelve (12) equal installments out of the general fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 3. The Morris County Juvenile Board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 as heretofore or hereafter amended. If the juvenile board determines that it is necessary to have a juvenile officer for Morris County, it may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of Morris County in an amount not to exceed Three Thousand Dollars (\$3,000) per year, and whose allowance for expenses shall not exceed Five Hundred Dollars (\$500) per year. The Juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 as heretofore or hereafter amended. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court of Morris County shall provide the necessary funds for payment of the salary and expenses of the juvenile officer. Acts 1961, 57th Leg., p. 256, ch. 132.

Emergency. Effective May 15, 1961.

#### Art. 5139II. Juvenile boards in Comal, Hays, Caldwell, Austin and Fayette counties

Section 1. There are hereby established juvenile boards in Comal, Hays, Caldwell, Austin and Fayette Counties, each of which shall be composed of the county judge of the county and the district judge of one of the two judicial districts comprised of these five (5) counties, as the commissioners court in each county shall determine.

Sec. 2. As compensation for the added duties hereby imposed upon them, members of the juvenile boards in Comal, Hays, Caldwell, Austin and Fayette Counties may each be allowed additional compensation of not less than One Hundred Dollars (\$100) per annum and not more than Three Hundred Dollars (\$300) per annum, which shall be paid monthly in twelve (12) equal installments out of the general fund or other available fund of the county concerned. Such compensation shall be in addition to all other compensation now provided or allowed by law for county and district judges.

Sec. 3. The juvenile boards created by this Act shall have all the powers conferred upon juvenile boards created under Article 5139 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. Acts 1961, 57th Leg., p. 312, ch. 163.

Effective 90 days after May 29, 1961, date of adjournment.

##### Title of Act:

An Act creating juvenile boards in Comal, Hays, Caldwell, Austin and Fayette Counties; prescribing the membership and powers of the boards and providing for compensation of members; repealing conflicting laws; providing for severability; and declaring an emergency. Acts 1961, 57th Leg., p. 312, ch. 163.

**Art. 5139JJ. Victoria County Juvenile Board**

Section 1. There is hereby established a juvenile board in Victoria County, which shall be composed of the county judge of Victoria County and the judge of each judicial district which includes Victoria County. The judge of the court which is designated the juvenile court for Victoria County shall be chairman of the board and its chief administrative officer. The board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto.

Sec. 2. As compensation for the additional duties hereby imposed, each member of the juvenile board shall be allowed additional compensation of not less than One Thousand, Two Hundred Dollars (\$1,200) nor more than One Thousand, Eight Hundred Dollars (\$1,800) per annum, to be fixed by the Commissioners Court and paid in twelve (12) equal installments out of the general fund or other available fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county and district judges.

Sec. 3. The Commissioners Court of Victoria County may appoint a chief probation officer and such other personnel as may be necessary for the proper functioning of the probation department. Salaries of the personnel of the county probation department shall be fixed by the Commissioners Court and shall be the same as those paid other county officials and clerks having comparable responsibilities and duties. The Commissioners Court of Victoria County shall provide the necessary funds for payment of salaries and expenses essential to the proper operation of the probation department. The Commissioners Court may also allow the county clerk of Victoria County, for the added duties imposed upon him as clerk of the juvenile court, additional compensation of not more than Seventy-five Dollars (\$75) per month. Acts 1961, 57th Leg., p. 371, ch. 187.

Emergency. Effective May 20, 1961.

**Art. 5139KK. Travis County Juvenile Board**

Section 1. There is hereby established a County Juvenile Board in and for the County of Travis, to be known as Travis County Juvenile Board, hereinafter referred to as Juvenile Board, which Juvenile Board shall be composed of the County Judge and the Judges of the several Civil District Courts, and the Criminal District Courts in and for Travis County.

Sec. 2. As compensation for the added duties imposed upon the members of the Juvenile Board, each member thereof shall receive the sum of Forty-eight Hundred Dollars (\$4800.00) annually, to be paid in equal monthly installments out of the general fund of said county. Such compensation shall be for all judicial and administrative services thereafter to be assigned to them as members of the Juvenile Board, and shall be in addition to all other compensation allowed or hereafter to be allowed by law for County Judges and District Judges.

Sec. 3. The Juvenile Board may appoint a discreet person of good moral character to serve as Chief Probation Officer. The Chief Probation Officer shall appoint assistant probation officers and other assistants whose services are necessary in the performance of his official duties, subject to confirmation by the Juvenile Board. The number of such assistant probation officers and other assistants shall be determined by the Juvenile Board. The Juvenile Board shall fix the salaries of and allowances for

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the said Chief Probation Officer, assistant probation officers and other assistants, and the Commissioners Court for said county shall provide the necessary funds for the payment of such salaries and operating expenses in the amounts fixed by the Juvenile Board, subject to the approval of the Commissioners Court. All claims for expenses of the Chief Probation Officer, the assistant probation officers and other assistants, shall be certified by the Chairman of the Juvenile Board to the said County Commissioners Court as being necessary in the performance of the duties of such officers, and the Commissioners Court shall out of the general fund provide funds for the payment of all expenses necessary to carry out the duties of the Chief Probation Officer in such amounts as fixed by the Juvenile Board, as certified by the Chairman of the Juvenile Board, subject to the approval of the Commissioners Court. The Chief Probation Officer, assistant probation officers, and other assistants, may be removed at any time by the authority appointing them.

Sec. 4. The Chief Probation Officer, in addition to his other duties, shall, if the Juvenile Board so directs, receive payments of moneys made under the orders of the several district courts and criminal district courts in said county, and/or payments made voluntarily, for the support of dependents, wives and children, and shall disburse said funds for the benefit of the wife and/or children of the person making such payment in such manner, by an order duly entered, as shall appear to the said courts to be for the best interest of said wife and/or children. The Chief Probation Officer shall enter into a bond payable to the judges of the several district courts and criminal district courts, and their successors, with a corporate surety authorized to make such a bond in the State of Texas, conditioned upon the faithful performance of the duties of his position, and further conditioned upon his proper accounting for any moneys received by him; said bond to be in such amount as may be fixed by the Juvenile Board and subject to the approval of the Commissioners Court, the premium for such bond to be paid out of the general funds of the county. The Chief Probation Officer shall cause to be kept an accurate and complete record of all receipts and disbursements of moneys received and disbursed for the benefit of dependents, wives and children, which records shall be court records and shall be open to inspection at all reasonable times by the parties, their representatives and attorneys; and certified or attested copies of such records shall be admitted and received as evidence as is provided for public records by Article 3720 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. It shall be the duty of the county auditor to inspect and examine such records and audit such accounts quarterly, making due report of his findings and recommendations with respect thereto to the Juvenile Board. Subject to confirmation by the Juvenile Board, the Chief Probation Officer shall appoint such assistants as may be necessary to effect the directions of the Juvenile Board regarding his duties to receive and to disburse funds paid for the support of dependents; and such assistants may be designated by titles appropriately descriptive of their duties. Such assistants may be removed by the appointing authority at any time. The Commissioners Court of said county shall provide out of the general funds of the county, in such amounts as are recommended by the Juvenile Board, subject to the approval of the Commissioners Court, the funds necessary to employ assistants and to operate and maintain facilities for receiving and disbursing wife and child support payments.

Sec. 5. The Chief Probation Officer shall appoint the Superintendents of each county institution maintained for the detention, shelter, training, education, or correction of juveniles. Such appointment shall be con-

firmed by the Juvenile Board and the salary of the Superintendents and the expenses of maintaining and operating such institutions shall be paid out of the general fund by the Commissioners Court in such amounts as recommended by the Juvenile Board, subject to the approval of the Commissioners Court. The Superintendents may be removed by the appointing authority at any time.

Sec. 6. The said Chief Probation Officer and Assistant Probation Officers shall have the authority, powers and duties authorized and required by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. Acts 1961, 57th Leg., p. 372, ch. 188.

Emergency. Effective May 20, 1961.

Section 7 of the Act of 1961 provided, in part, that the Act should be cumulative of existing laws.

**Art. 5139LL. Galveston County Juvenile Board**

Section 1. There is hereby established a County Juvenile Board in and for the County of Galveston, to be known as the Galveston County Juvenile Board, which Board shall be composed of the County Judge, the Judge of the Juvenile and County Court No. 2, the Judges of the several District Courts in and for Galveston County, and eight citizen members, four (4) to be appointed by the commissioners court of Galveston County; one (1) to be appointed by the Galveston City Council; one (1) to be appointed by the City Commission of Texas City; one (1) to be appointed by the City Council of Lamarque; and one (1) to be appointed by the City Council of Hitchcock. The Judge of the Juvenile and County Court No. 2 shall serve as chairman of the Juvenile Board. Citizen members of the Board shall serve for terms of two (2) years.

Sec. 2. The members of the Galveston County Juvenile Board shall receive no compensation for their services on said Board.

Sec. 3. The Judge of the Juvenile and County Court No. 2 of Galveston County may appoint discreet persons of good moral character to serve as Juvenile Officer and Assistant Juvenile Officers for Galveston County. The Board shall fix the salaries of and allowances for the said Juvenile Officer and Assistant Juvenile Officers and employ a clerk for said office, and the commissioners court shall provide the necessary funds for the payment of such salaries and expenses as may be necessary. All claims for expenses of the Juvenile Officer and Assistant Juvenile Officers shall be certified by the Chairman of the Board to the said county commissioners court as being necessary in the performance of the duty of such officer. The appointment of said Juvenile Officer and Assistant Juvenile Officers shall be filed in the office of the County Clerk of said county, and such officers shall take the oath to perform their duties and file such oaths in the office of the County Clerk of said county. The Judge of the Juvenile and County Court No. 2 may remove the Juvenile Officer or an Assistant Juvenile Officer at any time.

Sec. 4. The said Juvenile Officer and Assistant Juvenile Officers shall have the authority, powers and duties authorized and required by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto.

Sec. 5. The Commissioners Court of Galveston County shall furnish automobiles for the official use of said Juvenile Officer and Assistant Juvenile Officers, and provide for the expense of operating the same, as recommended by the Board.



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Sec. 6. This Act shall be cumulative of existing laws; and any laws in conflict herewith are repealed to the extent of such conflict only. Acts 1961, 57th Leg., p. 679, ch. 315.

Emergency. Effective June 16, 1961.

Galveston county juvenile and county court No. 2, see art. 1970-342. Juvenile officers, qualifications, duties, appointments, salaries and removal, see art. 5142.

#### Art. 5139MM. Dawson County Juvenile Board

Section 1. There is hereby established a juvenile board in Dawson County, which shall be composed of the county judge of Dawson County and two (2) citizens of Dawson County, one of whom shall be appointed by the Commissioners Court and the other by the chief of police of the City of Lamesa. Citizen members of the board shall serve for terms of two (2) years. The county judge shall be the chairman of the juvenile board and its chief administrative officer.

Sec. 2. As compensation for the added duties hereby imposed upon him, the chairman of such juvenile board may be allowed additional compensation of not less than Six Hundred Dollars (\$600.) nor more than Three Thousand Dollars (\$3,000.) per annum, which shall be paid monthly in twelve (12) equal installments out of the general fund or other available fund of Dawson County. The Commissioners Court of Dawson County may allow each other member of the board compensation in an amount not to exceed One Thousand, Two Hundred Dollars (\$1,200.) per annum, to be paid monthly in twelve (12) equal installments out of the general fund or other available fund of Dawson County. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges or any salary now received by citizen members of the juvenile board.

Sec. 3. The juvenile board created by this Act shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. The board may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of Dawson County in an amount not to exceed Five Thousand, Four Hundred Dollars (\$5,400.) per year. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer, and the Commissioners Court of Dawson County shall provide the necessary funds for the payment of the salary and expenses of the juvenile officer. The same person may serve as the juvenile officer and as one of the citizen members of the Dawson County Juvenile Board, but in such case he shall receive only the compensation fixed for the juvenile officer. Acts 1961, 57th Leg., p. 885, ch. 388.

Effective 90 days after May 29, 1961, date of adjournment.

Section 4 of the Act of 1961 repealed all inconsistent laws and parts of laws. Section 5 contained a severability clause.

#### Art. 5139NN. Coleman County Juvenile Board

Section 1. There is hereby established a Juvenile Board for Coleman County, which shall be known as the Coleman County Juvenile Board. It shall be composed of the county judge of Coleman County and the judge of each judicial district which includes Coleman County. The judge of the court which is designated as the juvenile court for Coleman County

shall be chairman of the board and its chief administrative officer. The board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925, and any amendments thereto.

Sec. 2. As compensation for the added duties hereby imposed upon him, the chairman of such board may be allowed additional compensation in the amount of Six Hundred Dollars (\$600) per annum, which shall be paid in twelve (12) equal installments out of the General Fund or any other available fund of Coleman County. The Commissioners Court of Coleman County may allow each other member of the board additional compensation in an amount not to exceed Three Hundred Dollars (\$300) per annum, to be paid in twelve (12) equal installments out of the General Fund or any other available fund of Coleman County. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 3. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges. Acts 1961, 57th Leg., 1st C.S., p. 196, ch. 57.

Effective 90 days after Aug. 8, 1961 date of adjournment.

Title of Act:

An Act establishing a Juvenile Board for Coleman County; prescribing the member-

ship of the board and providing for the compensation of its members; making this Act cumulative of existing laws; and declaring an emergency. Acts 1961, 57th Leg., p. 196, ch. 57.

## TITLE 83--LABOR

## CHAPTER SIX--FEMALE EMPLOYEES

## Art. 5172a. Hours of work for female employees; seats; exceptions

## Exceptions as to Certain Employments

Sec. 5. The four (4) preceding Sections shall not apply to:

(1) Female employees employed in a bona fide executive, administrative, professional, or outside sales capacity; or

(2) Female employees employed for the performance of clerical, pharmaceutical or technical work or duties in an office, laboratory or drafting room including, but not limited to, the operation of bookkeeping, stenographic, clerical, laboratory and engineering machines and equipment; or

(3) Female employees of any mercantile establishments, or telephone and telegraph companies in rural districts, and in cities and towns or villages of less than three thousand (3,000) inhabitants as shown by the last preceding Federal Census; or

(4) Female superintendents, matrons and nurses and attendants employed by, in and about such orphans homes as are charitable institutions not run for profit, and not operated by the state; or

(5) Female employees who are engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables; or

(6) Female employees of banks, provided, however, that no female shall be employed in any bank for more than fifty-four (54) hours in any one calendar week, nor to exceed twelve (12) hours in any one day. As amended Acts 1953, 53rd Leg., p. 832, ch. 335, § 1; Acts 1961, 57th Leg., p. 978, ch. 425, § 1.

## Extraordinary emergencies

Sec. 5a. In case of extraordinary emergencies, such as great public calamities, or where it becomes necessary for the protection of human life or property, longer hours may be worked; but for such time not less than one and one-half times the regular rate at which such female is employed shall be paid to such female with her consent. Unless otherwise provided herein, any female employee who works more than forty (40) hours per week shall be entitled to receive from the employer pay at a rate not less than one and one-half times the regular rate for which such female is employed for all hours in excess of nine (9) hours per day, provided the employee actually works more than forty (40) hours per week. Acts 1961, 57th Leg., p. 978, ch. 425, § 1.

Emergency. Effective June 17, 1961.

CHAPTER THIRTEEN—EMPLOYMENT AGENTS

Art. 5221a—5. Labor Agency Law

**Disposition of License Fees Collected.**

Sec. 9. License fees collected under the provisions of this Act shall be deposited by the Commissioner in the State Treasury to the credit of the General Revenue Fund. As amended Acts 1961, 57th Leg., p. 267, ch. 142, § 1.

Effective Sept. 1, 1961.

*Section 3 of the amendatory act of 1961 provided: "Sec. 3. The Employment Agency Fund (No. 139) is hereby abolished and the unexpended balance in that fund as of August 31, 1961, shall be transferred to the General Revenue Fund within thirty (30) days after September 1, 1961."*

Section 2 of the amendatory Act of 1961 amended art. 5221a—6, § 17.

Section 4 of the amendatory Act of 1961 provided: "This Act shall become effective on September 1, 1961."

Art. 5221a—6. Private Employment Agency Law

**Disposition of License Fees Collected.**

Sec. 17. The Commissioner shall deposit all moneys received by him from license fees under the provisions of this Act in the State Treasury to the credit of the General Revenue Fund. As amended Acts 1961, 57th Leg., p. 267, ch. 142, § 2.

Effective Sept. 1, 1961.

*Abolition of Employment Agency Fund, No. 139, see art. 5221a—5, note.*

Section 1 of the amendatory Act of 1961 amended section 9 of art. 5221a—5.

Section 4 of the amendatory Act of 1961 provided an effective date of September 1, 1961.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Article 5221b—1. Benefits

(b) Benefit amount for total unemployment: Each eligible individual who is totally unemployed in any benefit period shall be paid with respect to such benefit period, benefits at the rate of one twenty-fifth ( $\frac{1}{25}$ ) of his wages received from employment by employers during that quarter in his base period in which wages were highest, provided that:

(1) If such rate is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1); and

(2) Such rate shall not be more than Thirty-seven Dollars (\$37) per benefit period nor less than Ten Dollars (\$10) per benefit period. As amended Acts 1955, 54th Leg., p. 1310, ch. 517, § 1; Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 1.

Effective Jan. 1, 1962.

(d) Duration of Benefits: The Commission shall establish wage credits for each individual by crediting him with the wages for employment received by him during his base period from employers. The maximum

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total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of:

(1) Twenty-six (26) times his benefit amount, or

(2) Twenty-seven per cent (27%) of such wage credits;

provided that if such is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1). As amended Acts 1949, 51st Leg., p. 282, ch. 148, § 1; Acts 1955, 54th Leg., p. 399, ch. 116, § 1; Acts 1957, 55th Leg., p. 1350, ch. 460, § 1; Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 2.

Effective Jan. 1, 1962.

(e) Benefit Wage Credits: "Wages" as used in this Section shall be as defined in Subsection (n) of Section 19<sup>1</sup> of this Act, except that the three thousand dollar limitation on wages as set out in Subsection (n) (1) of Section 19 shall not be applicable for the purposes of this Section 3 to remuneration received after December 31, 1961; and it is further provided that for the purposes of this Section 3 wages received by an individual after December 31, 1961, shall include all remuneration from each employer for employment up to a maximum of the first Four Thousand, Eight Hundred Dollars (\$4,800) received during any calendar year. Added Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 3.

<sup>1</sup> Article 5221b—17(n).

Effective Jan. 1, 1962.

Sections 2-6 of the amendatory Act of 1961 amended various sections of the unemployment compensation act. Section 7 provided: "All laws or parts of laws in conflict herewith, insofar as they do conflict herewith, are hereby repealed but such repeal shall in no way be construed as forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission which have accrued thereunder, including, without limiting or without being limited thereto, the right to collect contributions, interest or penalties

that have accrued, and the right of prosecution for violation of any provision thereof; nor shall such repeal in any way be construed as forfeiting or waiving the rights of any individual to benefits which accrued thereunder; provided that the Commission's determination of the benefit year, the benefit amount for total unemployment, and the duration of benefits made with respect to an initial claim filed prior to January 1, 1962, shall be effective for the remainder of such benefit year."

#### Art. 5221b—2. Benefit eligibility conditions

(f) Prior to the first payment of benefits following an initial claim he has been totally or partially unemployed for a waiting period of seven (7) consecutive days. No week shall be counted as a waiting period week for the purposes of this Subsection:

(1) Unless he has registered for work at an employment office in accordance with Subsection (a) of this Section;

(2) Unless it is a week following the filing of an initial claim;

(3) Unless he reports at an office of the Commission and certifies that he has met the waiting period requirements herein prescribed for the preceding seven (7) days;

(4) If benefits have been paid or are payable with respect thereto;

(5) If the individual does not meet the eligibility conditions of Subsections (c) and (d) of this Section 4;

(6) If the individual has been disqualified for benefits for such seven (7) day period under the provisions of Subsections (a), (b), (c), or (d) of Section 5 of this Act<sup>1</sup>;

(7) Provided, notwithstanding any other provision of this Subsection (f), when an individual has been paid benefits in his current benefit year equal to four times his weekly benefit amount, he shall be eligible to re-

ceive benefits on his waiting period claim in accordance with the terms of the Act. Added Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 4.

<sup>1</sup> Article 5221b—3.

Effective Jan. 1, 1962.

Effect of repeal of laws conflicting with ment Commission, see note under art. 1961 amendment of this article on accrued 5221b—1. rights of State or of the Texas Employ-

**Art. 5221b—3. Disqualification for benefits**

An individual shall be disqualified for benefits:

(a) If the Commission finds that he has left his last work voluntarily without good cause connected with his work. Such disqualification shall be for not less than one (1) nor more than twenty-six (26) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 3; Acts 1957, 55th Leg., p. 1350, ch. 460, § 2; Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 5.

Effective Jan. 1, 1962.

(b) If the Commission finds he has been discharged for misconduct connected with his last work. Such disqualification shall be for not less than one (1) nor more than twenty-six (26) benefit periods following the filing of a valid claim, as determined by the Commission according to the seriousness of the misconduct. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 3; Acts 1957, 55th Leg., p. 1350, ch. 460, § 2; Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 5.

Effective Jan. 1, 1962.

(c) If the Commission finds that during his current benefit year he has failed, without good cause, either to apply for available, suitable work when so directed by the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. Such disqualification shall be for not less than one (1) nor more than thirteen (13) benefit periods following the failure, as described above to apply for or accept suitable work, the degree of disqualification to be determined by the Commission according to the circumstances in each case.

(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals at the place of performance of his work, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization. As amended Acts 1955, 54th Leg., p. 399, ch. 116,

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§ 3; Acts 1955, 54th Leg., p. 1310, ch. 517, § 3; Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 5.

Effective Jan. 1, 1962.

Effect of repeal of laws conflicting with 1961 amendments of this article on accrued rights of State or of the Texas Employment Commission, see note under art. 5221b—1.

#### Art. 5221b—5. Contributions

##### (c) Experience Rating:

(2) (A) When, with respect to any benefit year, an individual is first paid benefits, his benefit wage credits received during his base period shall be termed "benefit wages," and shall be treated for the purposes of this Subsection 7(c) as though they had been paid in the calendar quarter in which such benefits are paid. This process may be designated as charging benefit wages to an employer's account, and benefit wages thus charged may be designated as chargebacks. Benefit wages shall include only the wages from employers available for wage credits in a base period and shall not exceed Three Thousand, Five Hundred Sixty-three Dollars (\$3,563) for any one employee or former employee. If an employer fails to report wages which were paid to a claimant during a base period when requested by the Commission, the Commission may establish wage credits for such claimant for such base period on the basis of information which has been furnished by the claimant or on the basis of the best information which has been obtained by the Commission, and wage credits so established shall be used as benefit wages for such employer for the purposes of this Section 7. The benefit wages of each employer for a given calendar quarter shall be the total of the benefit wages received from such employer by all of his employees or former employees with respect to such quarter; provided, that the benefit wages of an employer shall not include wages received during any given base period from such employer by an employee or former employee, whose last separation from such employer's employment, prior to the benefit year in conjunction with which such base period was established, was (i) a separation required by a Federal or a Texas Statute or a Texas municipal ordinance; or (ii) a separation for which a disqualification under Subsection 5(a) or 5(b) of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; or (iii) a separation with respect to which a disqualification was imposed under Subsection 5(a) or 5(b) of this Act; and provided further that for the purpose of this paragraph the term "last separation" shall, with respect to an employee whose initial determination disqualified him for benefits under Subsection 5(d) of this Act, mean his next later separation from such employer's employment. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5; Acts 1955, 54th Leg., p. 399, ch. 116, § 5; Acts 1957, 55th Leg., p. 1350, ch. 460, § 4; Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, § 6.

Effective Jan. 1, 1962.

(6) The contribution rate for each employer shall be in accordance with the following table based upon the State experience factor and his benefit wage ratio:

WHEN STATE  
EXPERIENCE  
FACTOR IS IF THE EMPLOYER'S BENEFIT WAGE RATIO DOES NOT  
EXCEED

1% or less	10.0%	20.0%	30.0%	40.0%	50.0%	60.0%	70.0%	80.0%	90.0%
2	5.0	10.0	15.0	20.0	25.0	30.0	35.0	40.0	45.0
3	3.3	6.7	10.0	13.3	16.7	20.0	23.3	26.7	30.0
4	2.5	5.0	7.5	10.0	12.5	15.0	17.5	20.0	22.5
5	2.0	4.0	6.0	8.0	10.0	12.0	14.0	16.0	18.0
6	1.7	3.3	5.0	6.7	8.3	10.0	11.7	13.3	15.0
7	1.4	2.9	4.3	5.7	7.1	8.6	10.0	11.4	12.9
8	1.3	2.5	3.8	5.0	6.3	7.5	8.8	10.0	11.3
9	1.1	2.2	3.3	4.4	5.6	6.7	7.8	8.9	10.0
10	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0
11	.9	1.8	2.7	3.6	4.5	5.5	6.4	7.3	8.2
12	.8	1.7	2.5	3.3	4.2	5.0	5.8	6.7	7.5
13	.8	1.5	2.3	3.1	3.8	4.6	5.4	6.2	6.9
14	.7	1.4	2.1	2.9	3.6	4.3	5.0	5.7	6.4
15	.7	1.3	2.0	2.7	3.3	4.0	4.7	5.3	6.0
16	.6	1.3	1.9	2.5	3.1	3.8	4.4	5.0	5.6
17	.6	1.2	1.8	2.4	2.9	3.5	4.1	4.7	5.3
18	.6	1.1	1.7	2.2	2.8	3.3	3.9	4.4	5.0
19	.5	1.1	1.6	2.1	2.6	3.2	3.7	4.2	4.7
20	.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5
21	.5	1.0	1.4	1.9	2.4	2.9	3.3	3.8	4.3
22	.5	.9	1.4	1.8	2.3	2.7	3.2	3.6	4.1
23	.4	.9	1.3	1.7	2.2	2.6	3.0	3.5	3.9
24	.4	.8	1.3	1.7	2.1	2.5	2.9	3.3	3.8
25	.4	.8	1.2	1.6	2.0	2.4	2.8	3.2	3.6
26	.4	.8	1.2	1.5	1.9	2.3	2.7	3.1	3.5
27	.4	.7	1.1	1.5	1.9	2.2	2.6	3.0	3.3
28	.4	.7	1.1	1.4	1.8	2.1	2.5	2.9	3.2
29	.3	.7	1.0	1.4	1.7	2.1	2.4	2.8	3.1
30	.3	.7	1.0	1.3	1.7	2.0	2.3	2.7	3.0
31	.3	.6	1.0	1.3	1.6	1.9	2.3	2.6	2.9
32	.3	.6	.9	1.3	1.6	1.9	2.2	2.5	2.8
33	.3	.6	.9	1.2	1.5	1.8	2.1	2.4	2.7
34	.3	.6	.9	1.2	1.5	1.8	2.1	2.4	2.6
35	.3	.6	.9	1.1	1.4	1.7	2.0	2.3	2.6

THE EMPLOYER'S CONTRIBUTION RATE SHALL BE:

.1%	.2%	.3%	.4%	.5%	.6%	.7%	.8%	.9%
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For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

WHEN STATE  
EXPERIENCE  
FACTOR IS IF THE EMPLOYER'S BENEFIT WAGE RATIO DOES NOT  
EXCEED

	1% or less	100.0%	110.0%	120.0%	130.0%	140.0%	150.0%	160.0%	170.0%	180.0%
2		50.0	55.0	60.0	65.0	70.0	75.0	80.0	85.0	90.0
3		33.3	36.7	40.0	43.3	46.7	50.0	53.3	56.7	60.0
4		25.0	27.5	30.0	32.5	35.0	37.5	40.0	42.5	45.0
5		20.0	22.0	24.0	26.0	28.0	30.0	32.0	34.0	36.0
6		16.7	18.3	20.0	21.7	23.3	25.0	26.7	28.3	30.0
7		14.3	15.7	17.1	18.6	20.0	21.4	22.9	24.3	25.7
8		12.5	13.8	15.0	16.3	17.5	18.8	20.0	21.3	22.5
9		11.1	12.2	13.3	14.4	15.6	16.7	17.8	18.9	20.0
10		10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0
11		9.1	10.0	10.9	11.8	12.7	13.6	14.5	15.5	16.4
12		8.3	9.2	10.0	10.8	11.7	12.5	13.3	14.2	15.0
13		7.7	8.5	9.2	10.0	10.8	11.5	12.3	13.1	13.8
14		7.1	7.9	8.6	9.3	10.0	10.7	11.4	12.1	12.9
15		6.7	7.3	8.0	8.7	9.3	10.0	10.7	11.3	12.0
16		6.3	6.9	7.5	8.1	8.8	9.4	10.0	10.6	11.3
17		5.9	6.5	7.1	7.6	8.2	8.8	9.4	10.0	10.6
18		5.6	6.1	6.7	7.2	7.8	8.3	8.9	9.4	10.0
19		5.3	5.8	6.3	6.8	7.4	7.9	8.4	8.9	9.5
20		5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0
21		4.8	5.2	5.7	6.2	6.7	7.1	7.6	8.1	8.6
22		4.5	5.0	5.5	5.9	6.4	6.8	7.3	7.7	8.2
23		4.3	4.8	5.2	5.7	6.1	6.5	7.0	7.4	7.8
24		4.2	4.6	5.0	5.4	5.8	6.3	6.7	7.1	7.5
25		4.0	4.4	4.8	5.2	5.6	6.0	6.4	6.8	7.2
26		3.8	4.2	4.6	5.0	5.4	5.8	6.2	6.5	6.9
27		3.7	4.1	4.4	4.8	5.2	5.6	5.9	6.3	6.7
28		3.6	3.9	4.3	4.6	5.0	5.4	5.7	6.1	6.4
29		3.4	3.8	4.1	4.5	4.8	5.2	5.5	5.9	6.2
30		3.3	3.7	4.0	4.3	4.7	5.0	5.3	5.7	6.0
31		3.2	3.5	3.9	4.2	4.5	4.8	5.2	5.5	5.8
32		3.1	3.4	3.8	4.1	4.4	4.7	5.0	5.3	5.6
33		3.0	3.3	3.6	3.9	4.2	4.5	4.8	5.2	5.5
34		2.9	3.2	3.5	3.8	4.1	4.4	4.7	5.0	5.3
35		2.9	3.1	3.4	3.7	4.0	4.3	4.6	4.9	5.1

THE EMPLOYER'S CONTRIBUTION RATE SHALL BE:

1.0%	1.1%	1.2%	1.3%	1.4%	1.5%	1.6%	1.7%	1.8%
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WHEN STATE  
EXPERIENCE  
FACTOR IS IF THE EMPLOYER'S BENEFIT WAGE RATIO DOES NOT  
EXCEED

1% or less	190.0%	200.0%	210.0%	220.0%	230.0%	240.0%	250.0%	260.0%	270.0%
2	95.0	100.0	105.0	110.0	115.0	120.0	125.0	130.0	135.0
3	63.3	66.7	70.0	73.3	76.7	80.0	83.3	86.7	90.0
4	47.5	50.0	52.5	55.0	57.5	60.0	62.5	65.0	67.5
5	38.0	40.0	42.0	44.0	46.0	48.0	50.0	52.0	54.0
6	31.7	33.3	35.0	36.7	38.3	40.0	41.7	43.3	45.0
7	27.1	28.6	30.0	31.4	32.9	34.3	35.7	37.1	38.6
8	23.8	25.0	26.3	27.5	28.8	30.0	31.3	32.5	33.8
9	21.1	22.2	23.3	24.4	25.6	26.7	27.8	28.9	30.0
10	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0	27.0
11	17.3	18.2	19.1	20.0	20.9	21.8	22.7	23.6	24.5
12	15.8	16.7	17.5	18.3	19.2	20.0	20.8	21.7	22.5
13	14.6	15.4	16.2	16.9	17.7	18.5	19.2	20.0	20.8
14	13.6	14.3	15.0	15.7	16.4	17.1	17.9	18.6	19.3
15	12.7	13.3	14.0	14.7	15.3	16.0	16.7	17.3	18.0
16	11.9	12.5	13.1	13.8	14.4	15.0	15.6	16.3	16.9
17	11.2	11.8	12.4	12.9	13.5	14.1	14.7	15.3	15.9
18	10.6	11.1	11.7	12.2	12.8	13.3	13.9	14.4	15.0
19	10.0	10.5	11.1	11.6	12.1	12.6	13.2	13.7	14.2
20	9.5	10.0	10.5	11.0	11.5	12.0	12.5	13.0	13.5
21	9.0	9.5	10.0	10.5	11.0	11.4	11.9	12.4	12.9
22	8.6	9.1	9.5	10.0	10.5	10.9	11.4	11.8	12.3
23	8.3	8.7	9.1	9.6	10.0	10.4	10.9	11.3	11.7
24	7.9	8.3	8.8	9.2	9.6	10.0	10.4	10.8	11.3
25	7.6	8.0	8.4	8.8	9.2	9.6	10.0	10.4	10.8
26	7.3	7.7	8.1	8.5	8.8	9.2	9.6	10.0	10.4
27	7.0	7.4	7.8	8.1	8.5	8.9	9.3	9.6	10.0
28	6.8	7.1	7.5	7.9	8.2	8.6	8.9	9.3	9.6
29	6.6	6.9	7.2	7.6	7.9	8.3	8.6	9.0	9.3
30	6.3	6.7	7.0	7.5	7.7	8.0	8.3	8.7	9.0
31	6.1	6.5	6.8	7.1	7.4	7.7	8.1	8.4	8.7
32	5.9	6.3	6.6	6.9	7.2	7.5	7.8	8.1	8.4
33	5.8	6.1	6.4	6.7	7.0	7.3	7.6	7.9	8.2
34	5.6	5.9	6.2	6.5	6.8	7.1	7.4	7.6	7.9
35	5.4	5.7	6.0	6.3	6.6	6.9	7.1	7.4	7.7

THE EMPLOYER'S CONTRIBUTION RATE SHALL BE:

1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%
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For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

WHEN STATE  
EXPERIENCEFACTOR IS IF THE EMPLOYER'S BENEFIT WAGE RATIO DOES NOT  
EXCEED

	1% or less	280.0%	290.0%	300.0%	310.0%	320.0%	330.0%	340.0%	350.0%	360.0%
2		140.0	145.0	150.0	155.0	160.0	165.0	170.0	175.0	180.0
3		93.3	96.7	100.0	103.3	106.7	110.0	113.3	116.7	120.0
4		70.0	72.5	75.0	77.5	80.0	82.5	85.0	87.5	90.0
5		56.0	58.0	60.0	62.0	64.0	66.0	68.0	70.0	72.0
6		46.7	48.3	50.0	51.7	53.3	55.0	56.7	58.3	60.0
7		40.0	41.4	42.9	44.3	45.7	47.1	48.6	50.0	51.4
8		35.0	36.3	37.5	38.8	40.0	41.3	42.5	43.8	45.0
9		31.1	32.2	33.3	34.4	35.6	36.7	37.8	38.9	40.0
10		28.0	29.0	30.0	31.0	32.0	33.0	34.0	35.0	36.0
11		25.5	26.4	27.3	28.2	29.1	30.0	30.9	31.8	32.7
12		23.3	24.2	25.0	25.8	26.7	27.5	28.3	29.2	30.0
13		21.5	22.3	23.1	23.8	24.6	25.4	26.2	26.9	27.7
14		20.0	20.7	21.4	22.1	22.9	23.6	24.3	25.0	25.7
15		18.7	19.3	20.0	20.7	21.3	22.0	22.7	23.3	24.0
16		17.5	18.1	18.8	19.4	20.0	20.6	21.3	21.9	22.5
17		16.5	17.1	17.6	18.2	18.8	19.4	20.0	20.6	21.2
18		15.6	16.1	16.7	17.2	17.8	18.3	18.9	19.4	20.0
19		14.7	15.3	15.8	16.3	16.8	17.4	17.9	18.4	18.9
20		14.0	14.5	15.0	15.5	16.0	16.5	17.0	17.5	18.0
21		13.3	13.8	14.3	14.8	15.2	15.7	16.2	16.7	17.1
22		12.7	13.2	13.6	14.1	14.5	15.0	15.5	15.9	16.4
23		12.2	12.6	13.0	13.5	13.9	14.3	14.8	15.2	15.7
24		11.7	12.1	12.5	12.9	13.3	13.8	14.2	14.6	15.0
25		11.2	11.6	12.0	12.4	12.8	13.2	13.6	14.0	14.4
26		10.8	11.2	11.5	11.9	12.3	12.7	13.1	13.5	13.8
27		10.4	10.7	11.1	11.5	11.9	12.2	12.6	13.0	13.3
28		10.0	10.4	10.7	11.1	11.4	11.8	12.1	12.5	12.9
29		9.7	10.0	10.3	10.7	11.0	11.4	11.7	12.1	12.4
30		9.3	9.7	10.0	10.3	10.7	11.0	11.3	11.7	12.0
31		9.0	9.4	9.7	10.0	10.3	10.6	11.0	11.3	11.6
32		8.8	9.1	9.4	9.7	10.0	10.3	10.6	10.9	11.3
33		8.5	8.8	9.1	9.4	9.7	10.0	10.3	10.6	10.9
34		8.2	8.5	8.8	9.1	9.4	9.7	10.0	10.3	10.6
35		8.0	8.3	8.6	8.9	9.1	9.4	9.7	10.0	10.3

THE EMPLOYER'S CONTRIBUTION RATE SHALL BE:

2.8% 2.9% 3.0% 3.1% 3.2% 3.3% 3.4% 3.5% 3.6%

WHEN STATE  
EXPERIENCE  
FACTOR IS IF THE EMPLOYER'S BENEFIT WAGE RATIO DOES NOT  
EXCEED

1% or less	370.0%	380.0%	390.0%	400.0%	410.0%	420.0%	430.0%	440.0%	450.0%
2	185.0	190.0	195.0	200.0	205.0	210.0	215.0	220.0	225.0
3	123.3	126.7	130.0	133.3	136.7	140.0	143.3	146.7	150.0
4	92.5	95.0	97.5	100.0	102.5	105.0	107.5	110.0	112.5
5	74.0	76.0	78.0	80.0	82.0	84.0	86.0	88.0	90.0
6	61.7	63.3	65.0	66.7	68.3	70.0	71.7	73.3	75.0
7	52.9	54.3	55.7	57.1	58.6	60.0	61.4	62.9	64.3
8	46.3	47.5	48.8	50.0	51.3	52.5	53.8	55.0	56.3
9	41.1	42.2	43.3	44.4	45.6	46.7	47.8	48.9	50.0
10	37.0	38.0	39.0	40.0	41.0	42.0	43.0	44.0	45.0
11	33.6	34.5	35.5	36.4	37.3	38.2	39.1	40.0	40.9
12	30.8	31.7	32.5	33.3	34.2	35.0	35.8	36.7	37.5
13	28.5	29.2	30.0	30.8	31.5	32.3	33.1	33.8	34.6
14	26.4	27.1	27.9	28.6	29.3	30.0	30.7	31.4	32.1
15	24.7	25.3	26.0	26.7	27.3	28.0	28.7	29.3	30.0
16	23.1	23.8	24.4	25.0	25.6	26.3	26.9	27.5	28.1
17	21.8	22.4	22.9	23.5	24.1	24.7	25.3	25.9	26.5
18	20.6	21.1	21.7	22.2	22.8	23.3	23.9	24.4	25.0
19	19.5	20.0	20.5	21.1	21.6	22.1	22.6	23.2	23.7
20	18.5	19.0	19.5	20.0	20.5	21.0	21.5	22.0	22.5
21	17.6	18.1	18.6	19.0	19.5	20.0	20.5	21.0	21.4
22	16.8	17.3	17.7	18.2	18.6	19.1	19.5	20.0	20.5
23	16.1	16.5	17.0	17.4	17.8	18.3	18.7	19.1	19.6
24	15.4	15.8	16.3	16.7	17.1	17.5	17.9	18.3	18.8
25	14.8	15.2	15.6	16.0	16.4	16.8	17.2	17.6	18.0
26	14.2	14.6	15.0	15.4	15.8	16.2	16.5	16.9	17.3
27	13.7	14.1	14.4	14.8	15.2	15.6	15.9	16.3	16.7
28	13.2	13.6	13.9	14.3	14.6	15.0	15.4	15.7	16.1
29	12.8	13.1	13.4	13.8	14.1	14.5	14.8	15.2	15.5
30	12.3	12.7	13.0	13.3	13.7	14.0	14.3	14.7	15.0
31	11.9	12.3	12.6	12.9	13.2	13.5	13.9	14.2	14.5
32	11.6	11.9	12.2	12.5	12.8	13.1	13.4	13.8	14.1
33	11.2	11.5	11.8	12.1	12.4	12.7	13.0	13.3	13.6
34	10.9	11.2	11.5	11.8	12.1	12.4	12.6	12.9	13.2
35	10.6	10.9	11.1	11.4	11.7	12.0	12.3	12.6	12.9

THE EMPLOYER'S CONTRIBUTION RATE SHALL BE:

3.7%	3.8%	3.9%	4.0%	4.1%	4.2%	4.3%	4.4%	4.5%
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The Commission is authorized to extend the foregoing table by supplying additional State experience factor percentages and by supplying additional employer benefit wage ratio percentages using the same mathematical principles used in constructing said table by dividing various State experience factors into successively higher contribution rates in one-tenth of one per cent ( $\frac{1}{10}$  of 1%) gradations and rounding off to the nearest one-tenth of one per cent ( $\frac{1}{10}$  of 1%).

Provided, that when the amount in the Unemployment Compensation Fund on the October 1st computation date immediately preceding the calendar year for which rates are being computed is in excess of Three Hundred Million Dollars (\$300,000,000), a reduction in tax rate by one-tenth of one per cent ( $\frac{1}{10}$  of 1%) for each Five Million Dollars (\$5,000,000) or fraction thereof by which the amount in the Unemployment Compensation Fund is in excess of Three Hundred Million Dollars (\$300,000,000) shall be granted to each employer entitled to an experience tax rate; provided further, notwithstanding the foregoing provisions, that no employer shall be permitted to pay contributions at a rate less than one-tenth of one per cent ( $\frac{1}{10}$  of 1%) and that no employer shall be required to pay contributions at a rate greater than two and seven-tenths per cent (2.7%) except as hereinafter provided. When the amount in the Unemployment Compensation Fund on the October 1st computation date immediately preceding the calendar year for which rates are being computed is less than Two Hundred Twenty-five Million Dollars (\$225,000,000), an increase in the tax rate by one-tenth of one per cent ( $\frac{1}{10}$  of 1%) for each Five Million Dollars (\$5,000,000) or fraction thereof by which the amount in the Unemployment Compensation Fund is less than Two Hundred Twenty-five Million Dollars (\$225,000,000) shall be applied to the tax rate of each employer eligible for an experience tax rate, including any employer whose tax rate would otherwise be limited to two and seven-tenths per cent (2.7%). As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5C; Acts 1961, 57th Leg., p. 1129, ch. 513, § 1.

Effective Oct. 1, 1961.

Section 2 of Acts 1961, 57th Leg., p. 1129, ch. 513, amended art. 5221b-17. Section 3 provided: "All laws or parts of laws in conflict herewith, insofar as they do conflict herewith, are hereby repealed but such repeal shall in no way be construed as forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission which have accrued thereunder, including, without limiting or without being limited thereto, the right to collect contributions, interest or penalties that have accrued, and the right of prosecution for violation of any provision thereof; nor shall such repeal in any way be con-

strued as forfeiting or waiving the rights of any individual to benefits which accrued thereunder; provided that the Commission's determination of the benefit year, the benefit amount for total unemployment, and the duration of benefits made with respect to an initial claim filed prior to October 1, 1961, shall be effective for the remainder of such benefit year." Section 4 contained a severability clause.

Effect of repeal of laws conflicting with 1961 amendments of this article on accrued rights of State or of the Texas Employment Commission, see note under art. 5221b-1.

#### Art. 5221b-14. Penalties

(a). Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act or under the unemployment compensation law of any other state, either for himself or for any other person, shall be punished by a fine of not less than One Hundred Dollars (\$100.), nor more than Five Hundred Dollars (\$500.) or by imprisonment for not less than thirty (30) days nor longer than one (1) year, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute

a separate offense. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 12; Acts 1957, 55th Leg., p. 1350, ch. 460, § 9; Acts 1961, 57th Leg., p. 905, ch. 403, § 1.

Emergency. Effective June 17, 1961.

Art. 5221b—17. Definitions

(g) (5)

(E) Service performed in the employ of a religious, charitable, educational, or other organization described in Section 501(c) (3) of the United States Internal Revenue Code<sup>5</sup> which is exempt from income tax under Section 501(a) of said Code;

As amended Acts 1961, 57th Leg., p. 1129, ch. 513, § 2.

Effective Oct. 1, 1961.

(F) (i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 501(a) of the United States Internal Revenue Code<sup>5</sup> (other than an organization described in Section 401(a)<sup>6</sup> of said Code) or under Section 521<sup>7</sup> of said Code, if the remuneration for such service is less than Fifty Dollars (\$50); or (ii) service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university; As amended Acts 1961, 57th Leg., p. 1129, ch. 513, § 2.

(6)

(k) "State" includes, in addition to the States of the United States of America, Puerto Rico and the District of Columbia. As amended Acts 1961, 57th Leg., p. 1129, ch. 513, § 2.

Effective Oct. 1, 1961.

CHAPTER FIFTEEN—INSPECTION OF STEAM BOILERS

Article 5221c. Inspection and inspectors

Fees for inspections

Sec. 12. The Commissioner shall fix and collect fees for the inspection of steam boilers covered by this Act, which exceed thirty (30) inches in diameter, external and internal inspection not to exceed Fifteen Dollars (\$15) in each twelve-month period; and for boilers exceeding twenty-four (24) inches in diameter and not exceeding thirty (30) inches in diameter, Ten Dollars (\$10) for each complete inspection in each twelve-month period; and boilers not exceeding twenty-four (24) inches in diameter, Five Dollars (\$5) for each complete inspection in each twelve-month period. Provided that, when a boiler is found unfit for further use no Certificate of Inspection shall be issued and the use of such condemned boiler may be prohibited. Provided further that the Commissioner or any of his employees shall not have authority to prescribe the make, brand or kind of boilers to buy or purchase. And provided that when any inspector or employee of the Commissioner tears down a boiler in a cleaning and pressing establishment said inspector or employee shall assist the owner to repair and assemble said boiler as it was before it was dismantled, and if he fails to assist said owner said fee shall not be paid. Such fees must be paid by the owner or user before the issuance of a Certificate of Operation for the boiler inspected. No fees shall be charged the owner or user by the Commissioner when the inspection herein provided for has been made by an inspector holding a commission as inspector from said Commissioner if the

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holder of such commission as inspector is employed by any county, or city and county, or city, or insurance company except the charge fixed for Certificate of Operation in Section 5 hereof. All fees collected by the Commissioner under this Act shall be paid into the State Treasury to the credit of the General Revenue Fund. As amended Acts 1951, 52nd Leg., p. 273, ch. 158, § 1.; Acts 1957, 55th Leg., p. 1331, ch. 452, § 1; Acts 1961, 57th Leg., p. 496, ch. 239, § 1.

**Disposition of funds; general revenue fund**

Sec. 17. The funds collected under the provisions of this Act shall be paid into the State Treasury to the credit of the General Revenue Fund. As amended Acts 1961, 57th Leg., p. 496, ch. 239, § 2.

**Appropriation**

Sec. 18. Repealed. Acts 1961, 57th Leg., p. 496, ch. 239, § 3.  
Emergency. Effective Sept. 1, 1961.

**CHAPTER 16. MISCELLANEOUS PROVISIONS**

**Art. 5238. 5490, 3251 Owners of buildings lien**

*Repeal of fee provisions, see art. 3930a, note.*

## TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE

## 2. FEDERAL USE

<p>Art. 5244a—3. Conveyance of state land or interest in land to United States for civil works projects [New].</p> <p>5248c—1. Conveyance of county land or interest in land to United States for military installation [New].</p>	<p>Art. 5248c—2. Conveyance of county land or interest in land to United States for civil works projects.</p> <p>5248d—1. Conveyance of lands under control of state Highway Department to United States for military purposes [New].</p>
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## 1. STATE USE

## Art. 5240. 5247–8 Mode of acquisition

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

## 2. FEDERAL USE

## Art. 5242. 5252 Authorized uses

Conveyance of county land or interest in land to United States for military installation, see art. 5248c—1.

Art. 5244a. Municipal corporations, and political subdivisions or districts; conveyances to United States in aid of navigation, flood control, etc.; prior conveyances validated

Conveyance of county land or interest in land to United States for civil works projects, see art. 5248c—2.

Art. 5244a—1. Highway Commission authorized to grant easements or interests in land to United States for flood control in counties near Mexican boundary

Conveyance of county land or interest in land to United States for civil works projects, see art. 5248c—2.

Art. 5244a—2. Commissioners' Courts authorized to convey land to United States for flood control near Mexican boundary

Conveyance of county land or interest in land to United States for civil works projects, see art. 5248c—2.

Art. 5244a—3. Conveyance of state land or interest in land to United States for civil work projects

Section 1. Conveyances Authorized. Whenever the State of Texas shall be the owner of any land or interest in land, which land or interest therein is under the control of the Texas Highway Department, and which land is used or proposed to be used as a part of the site of a flood control, river and harbor improvement, water conservation, or other civil works project constructed or to be constructed by the United States of America or an agency or instrumentality thereof, the Governor is hereby authorized and empowered, upon the recommendation of the State Highway Commission, or upon request by the United States through its proper officers when supported by the recommendation of the State



463 **LANDS—ACQUISITION FOR PUBLIC USE Art. 5248c—1**

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Highway Commission, to convey to the United States of America or to any political subdivision, agency or instrumentality of this State which is cooperating with the United States in any such project, without monetary consideration therefor, or for a consideration determined by the State Highway Commission, an easement or other interest in such land which may be necessary for the construction, operation, and maintenance of such project.

**Sec. 2. When Fee Title Is Not in the State.** In the event the fee simple title to such land is not vested in the State and the owner of the fee has executed an easement to such lands for the above purposes, the Governor is authorized and empowered upon the recommendation of the State Highway Commission to join in and assent to such easement by the same instrument or by separate instrument.

**Sec. 3. Former Conveyances Ratified.** All such conveyances heretofore made by the Governor upon the recommendation of the State Highway Commission for the purposes stated above are hereby ratified and validated. Acts 1961, 57th Leg., p. 664, ch. 306.

Emergency. Effective June 14, 1961.

Conveyance of county land or interest in land to United States for civil works projects, see art. 5248c—2.

State land, conveyance, see art. 5245.

**Art. 5245. 5273, 372, 331 State land**

Conveyance of county land or interest in land to United States for military installation, see art. 5248c—1.

Conveyance of state land or interest in land to United States for civil works projects, see art. 5244a—3.

**Art. 5248c. Counties authorized to convey lands to the United States**

Conveyance of county land or interest in land to United States for military installation, see art. 5248c—1.

**Art. 5248c—1. Conveyance of county land or interest in land to United States for military installation**

**Conveyance Authorized**

**Section 1.** Whenever the county shall be the owner of any land or interest in land, which land or interest therein is under the control of the county and is near any federally owned or operated military installation or facility, the County Judge is hereby authorized and empowered upon an order of the Commissioners Court or upon request by the United States through its proper officers when supported by an order of the Commissioners Court to convey to the United States of America without monetary consideration therefor, or for a consideration determined by the Commissioners Court, an easement or other interest in such land which may be necessary in connection with the construction, operation, and maintenance of such military installation or facility.

**When Fee Title is not in the County**

**Sec. 2.** In the event the fee simple title to such land is not vested in the county and the owner of the fee has executed an easement to such lands for such purposes, the County Judge is authorized and empowered upon an order of the Commissioners Court to join in and assent to such easement by the same instrument or by a separate instrument.

**Former Conveyances Ratified**

Sec. 3. All such conveyances heretofore made by the County Judge or Commissioners Court upon an order of the Commissioners Court for the above purposes are hereby ratified and validated. Acts 1961, 57th Leg., p. 273, ch. 148.

Emergency. Effective May 15, 1961.

Acquisition of land by

County for use of United States, see art. 5248e.

United States for military installation, see art. 5242.

Conveyance of lands, under control of state highway department to United States for military purposes, see art. 5248d—1.

Counties authorized to convey lands to the United States, see art. 5248c.

Governor, authority to lease or sell lands to United States for military purposes, see Const. art. 16, § 34.

State land, sale to United States, see art. 5245.

**Title of Act:**

An Act authorizing the County Judge, upon an order of the Commissioners Court, to convey certain of the county's interests in certain lands when such interests are necessary for the maintenance of any federally owned or operated military installation or facility; ratifying and validating certain previous conveyances; providing severability; and declaring an emergency. Acts 1961, 57th Leg., p. 273, ch. 148.

**Art. 5248c—2. Conveyance of county land or interest in land to United States for civil works projects**

**Conveyances Authorized**

Section 1. Whenever the County shall be the owner of any land or interest in land, which land or interest therein is under the control of the said County, and which land is used or proposed to be used as a part of the site of a flood control, river and harbor improvement, water conservation, or other civil works project constructed or to be constructed by the United States of America or an agency or instrumentality thereof, the County Judge is hereby authorized and empowered upon an order of the Commissioners Court, or upon request by the United States through its proper officers when supported by an order of the Commissioners Court, to convey to the United States of America or to any political subdivision, agency or instrumentality of this State which is cooperating with the United States in any such project, without monetary consideration therefor, or for a consideration determined by the Commissioners Court, an easement or other interest in such land which may be necessary for the construction, operation, and maintenance of such project.

**When Fee Title is not in the County**

Sec. 2. In the event the fee simple title to such land is not vested in the County and the owner of the fee has executed an easement to such lands for the above purposes, the County Judge is authorized and empowered upon an order of the Commissioners Court to join in and assent to such easement by the same instrument or by separate instrument.

**Former Conveyances Ratified**

Sec. 3. All such conveyances heretofore made by the County Judge or Commissioners Court on an order of the Commissioners Court for the purposes stated above are hereby ratified and validated. Acts 1961, 57th Leg., p. 274, ch. 149.

Emergency. Effective May 15, 1961.

Commissioners' court, authority to convey land to United States for flood control near Mexican boundary, see art. 5244a—2.

Conveyance of state land or interest in land to United States for civil works projects, see art. 5244a—3.

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Highway commission, authority to grant easements or interests in land to United States for flood control in counties near Mexican boundary, see art. 5244a—1. Municipal corporations, conveyances to United States in aid of navigation, flood control, etc., see art. 5244a.

**Art. 5248d—1. Conveyance of lands under control of State Highway Department to United States for military purposes**

**Conveyances Authorized**

Section 1. Whenever the State of Texas shall be the owner of any land or interest in land, which land or interest therein is under the control of the Texas Highway Department and is near any Federally owned or operated military installation or facility, the Governor is hereby authorized and empowered upon the recommendation of the State Highway Commission or upon request by the United States through its proper officers when supported by the recommendation of the State Highway Commission to convey to the United States of America without monetary consideration therefor, or for a consideration determined by the State Highway Commission, an easement or other interest in such land which may be necessary in connection with the construction, operation, and maintenance of such military installation or facility.

**When Fee Title Is Not in the State**

Sec. 2. In the event the fee simple title to such land is not vested in the State of Texas and the owner of the fee has executed an easement to such lands for such purposes, the Governor is authorized and empowered upon the recommendation of the State Highway Commission to join in and assent to such easement by the same instrument or by a separate instrument.

**Former Conveyances Ratified**

Sec. 3. All such conveyances heretofore made by the Governor upon the recommendation of the State Highway Commission for the above purposes are hereby ratified and validated. Acts 1961, 57th Leg., p. 1063, ch. 475.

Emergency. Effective June 17, 1961.

Conveyance of county land to United States for military purposes, see art. 5248c—1.

**Art. 5248e. Cities or counties, acting separately or jointly, may acquire lands for use of United States Government; contracts; validation of agreements**

Conveyance of county land or interest in land to United States for military installation, see art. 5248c—1.

TITLE 86—LANDS—PUBLIC

CHAPTER THREE—SURFACE AND TIMBER RIGHTS

2. SALES

Art. 5333. 5452 Application and delivery

*Repeal of fee provisions, see art. 3930a, note.*

CHAPTER FOUR—OIL AND GAS

1. UNIVERSITY AND OTHER LANDS

Art. 5351. Pollution of streams

Injection wells for industrial and municipal waste, see art. 7621b.

2. GULF LANDS

Art. 5366. Pollution of streams

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

CHAPTER SEVEN—GENERAL PROVISIONS

Art.	Art.
5415e. State-owned submerged lands and islands; conservation and preservation of natural resources [New].	5421j—2. Lease by city of Corpus Christi of submerged lands previously relinquished to city by state [New].
5421c—9. Sale of school land; extension of time for payment of notes or obligations [New].	5421k—3. Sale of land in Cayo Del Oso to city of Corpus Christi; validation [New].
5421h—2. Powers and duties of State Reclamation Engineer transferred to State Board of Water Engineers [New].	

Art. 5415a. Gulfward boundary fixed; sovereignty over waters, beds and shores of gulf; Permanent Public Free School Fund, lands granted to

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

Art. 5415b. Adjacent territory acquired under convention between United States and Mexico; acceptance by State; inclusion in counties and water improvement or conservation districts

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

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**Art. 5415e. State-owned submerged lands and islands; conservation and preservation of natural resources**

**Declaration of Policy and Purpose**

Section 1. The state-owned submerged lands and islands in the Texas Gulf Coast Area and the natural resources with which they are so richly endowed, constitute an important and valuable property right belonging to the Public Free School Fund and to all of the people of Texas. It is the declared policy of the state that such lands shall be so managed and used as to insure the conservation of such lands and resources and their development and utilization in the public interest. The value of such lands as public property for production and marketing of oil and gas and other minerals and for fishing, hunting, recreation, health and other uses in which the public at large may participate and enjoy, shall be considered as paramount, and private development shall be approved only if it does not significantly impair these values. Further, it is the policy of this state not to sell any of its submerged lands or islands unless specifically authorized to do so by the Legislature.

The purpose of this Act is to implement the foregoing policies by delegating to a Submerged Lands Advisory Committee and to the School Land Board, which shall be assisted by the Coastal Areas Management Division within the General Land Office, certain responsibilities and duties with respect to the management, control and use of the surface estate in state-owned submerged lands and islands to the end that:

(a) The natural resources of salt water lakes, bays, inlets or marshes within the tidewater limits shall be conserved;

(b) The interests of navigation and commerce in the intra-coastal waters will be protected;

(c) Unauthorized encroachment upon and use of the submerged lands and islands owned by the state shall be prevented;

(d) Private and public rights in land, running with the land, shall be protected; and,

(e) Utilization of such lands for industrial uses will be allowed only if the public interest is not unduly adversely affected thereby.

The Legislature shall appropriate biennially to the General Land Office, the necessary funds to accomplish the purposes of this Act.

**Definitions**

Sec. 2. As used in this Act, unless the context clearly requires otherwise:

(a) "Board" means the School Land Board.

(b) "Commissioner" means the Commissioner of the General Land Office.

(c) "Advisory Committee" means the Texas Submerged Lands Advisory Committee.

(d) "Island" means any body of land completely surrounded by water located in a salt water lake, bay, inlet or other inland body of water within the tidewater limits of this state, or any portion of such body of land, and shall include man-made islands resulting from dredging or other operations in such waters.

(e) "Submerged lands" means any land extending from the shore line marking the boundary between the lands of the state and littoral owners, to the low water mark on any salt water lake, bay, inlet or other in-

land water within tidewater limits, and any land lying beneath such bodies of water but shall not include beaches on the open Gulf of Mexico, or land within the jurisdiction of the State of Texas which lies beneath the open waters of the Gulf of Mexico.

(f) "Person" means any individual, firm, partnership, association, corporation (public or private), or political subdivision of this state.

(g) "Bulkhead line" means the line or lines beyond which, when so established by the Commissioners Court in the county where such land is located, or the governing body of an incorporated city or town if the land is within the limits of a city or town, a further extension creating or filling of land or islands outward into the water is prohibited, and beyond which no state-owned submerged land may be leased.

(h) "Governing body" means the governing body of an incorporated city or town.

#### Administration

Sec. 3. The School Land Board is hereby designated the executive agency of the state charged with the administration and enforcement of the provisions of this Act. There shall be established a Coastal Areas Management Division within the General Land Office to assist the Board in the discharge of its responsibilities and duties under this Act and the Commissioner is authorized to employ such personnel as may be necessary for the Board to perform effectively such functions.

#### Duties of the Board

Sec. 4. (a) The Board shall, with the technical advice and assistance of the Submerged Lands Advisory Committee, develop a continuing comprehensive submerged lands management program designed to achieve the purposes set forth in Section 1 of this Act. Incidental thereto, it shall make a survey to determine, as accurately as possible, the extent and location of the state-owned submerged lands and islands, and shall locate and mark on the ground the boundaries separating such lands from privately owned lands. Such program shall further comprehend a study of the potential uses to which such lands might be put so as to utilize the marine resources of the state to the fullest extent conducive with the public interest, and shall also include studies of the various problems in the coastal engineering field such as the protection of the beaches and bay bluffs from harmful erosion, the design and use of groins, seawalls and jetties, and the effects of bay fills, fish passes and other coastal works upon the physical features of the shores, channels and bay bottoms and upon marine and wildlife inhabiting such areas. Pursuant to such program the Board may grant permission to state institutions of higher education or their branches to utilize portions of submerged lands, mutually agreed upon, for marine research; such permission to include the right to use physical barriers or devices incidental to such research.

(b) The Board shall investigate cases involving the unauthorized encroachment upon and use of state-owned submerged lands and islands by private interests and shall refer all such cases where warranted to the Attorney General for appropriate action. The Attorney General shall promptly institute legal action to enjoin such unauthorized encroachment or use.

(c) The Board shall, with the advice and assistance of the Advisory Committee, conduct a continuing study of the problems affecting state-owned submerged lands and islands and shall make a report to the Leg-

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islature not later than the first of December preceding each Regular Session, setting forth the results of its study together with any recommendations for legislative action which it considers necessary.

(d) The Board shall pass upon applications for lease of state-owned submerged lands and islands for industrial purposes as hereinafter provided.

(e) The Board shall approve or disapprove bulkhead lines located and fixed by the Commissioners Court or governing bodies of incorporated cities or towns.

#### Submerged Lands Advisory Committee

Sec. 5. (a) There is hereby created a "Texas Submerged Lands Advisory Committee" to advise and assist the School Land Board and perform such other duties as are herein provided, which Committee shall be composed of the following members:

(1) The Executive Director of the State Game and Fish Commission, the Director of the Institute of Marine Science, The University of Texas, and the Chairman of the Department of Oceanography, Texas A. & M. College, who shall serve as ex officio members of the Committee.

(2) Two (2) citizen members appointed by the Governor, with the consent of the Senate, one (1) of whom shall be chosen for his recognized interest in conservation of the state's natural resources, and the other for his interest in the development of the state's submerged lands and his knowledge in the fields of oceanography and coastal engineering.

(b) The terms of members first appointed shall be from the date of their appointment through December 31, 1961, and appointments thereafter shall be for a period of two (2) years ending on December 31 of even-numbered years. Any vacancy shall be filled by appointment by the Governor for the unexpired term and each member shall serve until his successor is appointed and qualified.

(c) Members of the Committee shall serve without compensation, but shall be entitled to reimbursement for actual necessary travel and subsistence expenses while in attendance upon meetings of the Committee or engaged in the performance of duties as a member while away from their places of residence.

(d) The Committee shall, within thirty (30) days following the appointment of members, meet and organize by selecting a chairman and vice-chairman. Thereafter, the Committee shall meet at least once every three (3) months, and called meetings may be held at such times and places as the chairman shall determine. A majority of the members shall constitute a quorum. Each ex officio member may delegate to a personal representative from his office the authority and duty of representing him on the Committee or at public hearings.

#### Power to fix Bulkhead Line

Sec. 6. (a) The Commissioners Court, or the governing body if the submerged lands or islands are within the limits of an incorporated city or town, may locate and fix a bulkhead line located at a distance extending not more than one thousand (1,000) feet from the shore line within all or part of the area of the county, city or town, as the case may be, after public hearing of which at least thirty (30) days prior notice has been given by publication once each week for three (3) consecutive weeks in a newspaper having general circulation in the county. Notice of the public hearing shall be sent to the Board and

Advisory Committee, which shall have representatives present at the hearing. Every bulkhead line located and fixed by a Commissioners Court or governing body shall be reviewed and approved by the Board with the technical advice of the Advisory Committee before such bulkhead line shall become effective.

(b) Any person desiring to lease any submerged lands or islands as provided for in Section 8, shall, if a bulkhead line has not been fixed, make written application to the Commissioners Court or governing body as the case may be, requesting that a bulkhead line be established within the area defined in the application. The Commissioners Court or governing body shall, upon receiving such application, promptly proceed to locate such bulkhead line subject to the review by and approval of the Board with the advice of the Advisory Committee. A public hearing after notice as provided in the above paragraph shall be required.

(c) In locating and fixing a bulkhead line or lines, the County Commissioners or governing body shall take into consideration:

(1) The correlative rights of other littoral owners within the area and vicinity of the land in question;

(2) The protection of coastal and intra-coastal waters of the state in the interest of navigation, commerce and public health;

(3) The public and private rights in lands adjacent to such waters;

(4) The conservation of the natural resources of such waters and the submerged bottoms thereof; and

(5) The necessity for establishing such lines at uniform distances from the shores at the boundaries of adjoining counties and at points separating the jurisdiction of incorporated cities and towns and counties.

(d) Upon the establishment and approval of any such bulkhead line or lines in the manner herein provided for, a drawing showing the location of such line or lines shall be promptly filed in the public records of the county where the same may be located and recorded in the book of plats of said county.

(e) Once so established, any proposal thereafter made to change a bulkhead line shall be published once each week for three (3) consecutive weeks in a newspaper of general circulation published in the county where such change in said line or lines is proposed, and the publication of such proposals shall be deemed to be a public notice of a hearing before the authority initially establishing said bulkhead line or lines and the publication of such proposals shall include therein the time, date and place for such hearing. Notice of such hearing shall be sent to the Board and Advisory Committee, which shall have representatives present at the hearing. Any change in any such line or lines when made and approved by the Board with the technical advice of the Advisory Committee, shall be evidenced as provided by this Section.

#### Board's Authority to Lease

Sec. 7. (a) Subject to the limitations contained in paragraphs (b), (c), (d), (e), (f), and (g) of this Section, the Board may lease the surface estate in state-owned islands and submerged lands, as defined in Section 2, upon such terms and conditions and for such lease rentals as it sees fit, provided the Board determines such lease is not contrary to the public interest.

(b) The Board shall not lease the surface estate in any state-owned island or submerged lands unless the Commissioners Court of the county in



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which such land is situated or the governing body of an incorporated city or town, in the event such lands are within the limits of a city or town, has filed with the Board pursuant to Section 8 of this Act, a recommendation that the particular land be made available for lease.

(c) No state-owned submerged land as herein defined lying between the shore line and the bulkhead line, shall be leased to any person other than the littoral owner of the adjoining upland; except that should the State of Texas be the littoral owner thereof, then such submerged land may be leased in the same manner as provided herein for islands. In cases where the curvature of the shore line or other conditions prevent an extension of the property lines of littoral owners outward to the bulkhead line without a conflict, the Board shall not approve a lease which does not make a fair and reasonable allocation of the submerged land among the various littoral owners having regard to the frontage of each such littoral owner.

(d) All mineral rights, together with the right to explore for, produce and market same shall be reserved to the state, and such rights shall be the dominant estate in such lands.

(e) The rental payment for any land leased pursuant to this Act shall represent the reasonable rental value for such land as determined by the Board.

(f) Every lease executed pursuant to this Act shall provide that the lease shall automatically terminate in the event the use for which the land was leased ceases or the land is diverted to materially different uses.

(g) No state-owned submerged land or islands as herein defined shall be leased except for industrial purposes including exploration and development of oil and gas under prior existing laws. Said industrial purposes shall not be construed to mean for the purposes of industrial waste disposal.

#### Procedure Before Commissioners Court or Governing Body

Sec. 8. (a) Any person desiring to lease the surface estate in any state-owned island or submerged land shall make application in writing to the Commissioners Court of the county in which such land is located, or, if located within the limits of a city or town, to the governing body thereof, or, if the dividing line between counties is the shore line, to the Commissioners Court of the county or the governing body of the city or town, as the case may be, in which the littoral upland is situated requesting such court or governing body to recommend to the School Land Board that the land in question be made available for lease by the state. The application, in such form as prescribed by the School Land Board, shall particularly describe by field notes the land sought to be leased and shall set forth a proposed plan of development showing:

- (1) The nature and extent of any improvements to be made on such land;
- (2) The industrial purpose for which the land is to be used;
- (3) The estimated time within which the development of the land is to be completed; and
- (4) Such additional information as may be considered necessary by the Board.

(b) Upon receiving the application, the Commissioners Court or governing body shall give notice thereof by publication in a newspaper published and distributed in the county in which the land is located not less

than once a week for three (3) consecutive weeks, and by mailing copies of such notice by registered mail to each littoral owner of upland lying within one thousand (1,000) feet of the island or submerged land proposed to be leased, addressed to such owner as his name and address appear upon the latest county tax assessment rolls, in order that any person having objections to the lease may have the opportunity of filing same in writing with the Commissioners Court or governing body. The applicant shall pay to the Commissioners Court or governing body a fee in an amount determined by it as necessary to defray the costs of processing the application. If no objections are filed within thirty (30) days after the date of the first publication of the aforesaid notice, the Commissioners Court or governing body shall forthwith determine whether or not the application shall be approved and a recommendation made to the Board that such land be made available for lease by the state. If the court or governing body approves the application, it shall make its recommendation to the Board in the same manner and form as provided in paragraph (c).

(c) If objections are filed, the Commissioners Court or governing body, after giving notice in the same manner as provided above, shall hold a public hearing at which all interested parties may express their approval of or opposition to the proposed lease. Notice of such hearing shall also be sent to the Board and Advisory Committee, which shall have representatives present at the hearing. If the Commissioners Court or governing body determines on the basis of the testimony presented at the public hearing, and other information obtained through its own investigations, that it would not be against the public interest for the land under consideration to be leased by the state, it shall make its recommendations accordingly to the School Land Board. Such recommendation shall be supported by a finding of facts in such form as prescribed by the Board and shall be accompanied by a copy of the application filed by the person desiring to lease the state-owned land. The Commissioners Court or governing body may make any recommendations with respect to rentals, or limitations on acreage for such consideration as the Board may deem proper.

(d) Upon receipt of the recommendations from the Commissioners Court or governing body, and after due consideration of all facts presented and after review and report thereon by the Advisory Committee, the Board, if it appears that the lease of such lands for the purposes set forth in the application of the person desiring to lease would not interfere with the lawful rights of littoral owners or the conservation of natural resources, or would not unreasonably obstruct navigation, or would not for any other reason be against the public interest, may issue an order to be entered in its minutes declaring the land available for lease for such purposes. The Board may have its own appraisers set a reasonable rental value on the land or it may request the Commissioners Court or governing body, to have an independent appraisal made of such land. In the event the land approved for lease is "submerged land" as defined herein, and is limited under Section 7, Sub-section (c) to lease by a littoral owner, the Board may proceed with negotiations for the lease of the property with the person filing the application under paragraph (a) of this Section. If agreement is reached between the Board and applicant as to terms of the lease of such submerged lands such facts shall be entered on the minutes of the Board. In the event the land declared available for lease by the Board is an island or portion thereof, or submerged land which is not limited to lease by a littoral owner, the Board shall insert an advertisement in at least four (4) newspapers published daily in the State of Texas, in at least three (3) issues of each, the last insertion of which shall be at least thirty (30)

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days in advance of the date set for opening bids, giving notice that the lands described in the notice will be offered for lease for the purpose therein defined on a certain date upon receipt of sealed bids. The Board may reject any one (1) or more of all bids, but unless the Board elects to reject any and all bids, it shall accept the best bid submitted. All leases of submerged lands or islands shall be executed by the Commissioner of the General Land Office in accordance with the minutes as approved by the Board.

#### County Submerged Lands Board Authorized

Sec. 9. (a) The Commissioners Court of any county within the boundaries of which are located state-owned islands or submerged lands, may, if it considers such action desirable, by resolution delegate to a County Submerged Lands Board, as hereinafter provided for, all of the powers, responsibilities and duties conferred upon the Commissioners Court by this Act, and such Board, when constituted, is hereby vested with all such powers, responsibilities and duties.

(b) Upon the adoption of the aforesaid resolution, the County Judge shall appoint seven (7) persons, residents of the county, as members of the County Submerged Lands Board whose term of office shall be two (2) years. In the event of a vacancy on such Board, the County Judge shall fill the vacancy by appointment for the unexpired term. No member of such Board or any of his immediate family may be an officer or employee of the county or an officer or employee of any city or political subdivision of the state located in said county. A member shall receive no compensation for his services but shall be entitled to receive all necessary expenses incurred in the discharge of his duties; such expenses to come from funds appropriated for the purpose by the Commissioners Court. Four (4) members of the County Submerged Lands Board shall constitute a quorum for the purpose of conducting the business of such Board, and action may be taken upon the majority vote of the members present. Such Board shall select from among its members a chairman and vice-chairman, and it may employ such officers, agents and employees as it may require and shall determine their qualifications, duties and compensation to be paid out of funds appropriated for the purpose by the Commissioners Court.

#### Rules and Regulations

Sec. 10. The School Land Board is hereby authorized to promulgate such rules and regulations as it considers necessary in the administration and enforcement of this Act.

#### Designation of School Land Board as Representative of State

Sec. 11. The School Land Board is hereby designated as the official representative of the Governor of the State to conduct with the Federal Government any business concerning any matter affecting the islands and submerged lands of the state, which arises out of the exercise by the Federal Government of any authority it may have over navigable waters under the Constitution of the United States.

#### Public Free School Fund Credit

Sec. 12. All moneys received by the School Land Board under the provisions of this Act shall be deposited in the State Treasury to the credit of the Permanent Free School Fund.

## Severability Clause

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

## Repealer

Sec. 14. Chapter 13, Article 1478 through Article 1482 and Chapter 14, Articles 1483 through Article 1494 of the Civil Statutes of Texas, 1925, are hereby repealed, and all other laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only. Provided that corporations which have been issued Articles of incorporation<sup>1</sup> under Chapters 13 and 14 of Title 32 of the Revised Civil Statutes of Texas, 1925, prior to the effective date of this Act may operate and exercise all of the powers and rights granted under the provisions thereof, and to that extent only such laws shall be considered as remaining in effect. It is expressly provided, however, that it is not intended that this Act shall repeal or modify the provisions of Chapter 3, Title 67, Revised Civil Statutes of Texas, as amended, as it relates to the powers and duties of the Game and Fish Commission with respect to all matters pertaining to the sale, taking, carrying away, or disturbing of marl, sand or gravel of commercial value, and all gravel, shells, mud shell, and oyster beds and their protection from free use and unlawful disturbing or appropriation as provided in said Chapter 3; nor is it intended that this Act should create or establish any additional or supplemental requirements or procedures to those set forth in the said Chapter 3, Title 67, insofar as the matters therein involved are concerned. It is further provided that it is not intended that this Act shall repeal or modify the provisions of Article 8225 of Chapter 9, Title 128, Revised Civil Statutes of Texas, as amended, or Articles 4035, 4036, 4037, 4038, 4039, 4040, and 4041 of Chapter 2, Title 67, Revised Civil Statutes of Texas. Acts 1961, 57th Leg., p. 841, ch. 377.

<sup>1</sup> So in enrolled bill.

Effective 90 days after May 29, 1961, date of adjournment.

Acceptance of lands adjacent to state acquired by United States, see art. 5415b.

Cities, power to reclaim submerged lands along water front, see art. 1187a.

Fish and marine life, property of state, see art. 4026.

Game, Fish and Oyster Commissioner, see art. 4016 et seq.

Gulf lands subject to lease, see art. 5353.

Land under water, bridges, ferries and causeways, see art. 1470.

Lease of islands or submerged lands by cities, see arts. 969a, 969a-1.

Navigation districts, purchase of property from state, see art. 8225.

Oyster bed, application for, see art. 4035 et seq.

Pollution, oil and gas wells in gulf waters, see art. 5366.

Public lands, mode of acquisition, see art. 5240.

Sale and lease of public lands and river beds, see art. 5421c.

State sovereignty over waters, beds and shores of gulf, see art. 5415a.

### Art. 5421c. Regulating sale and lease of school lands, public lands and river bed; Board of Mineral Development created

Sale of school land, extension of time for payment of notes or obligations, see art. 5421c-9.

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

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**Art. 5421c—9. Sale of school land; extension of time for payment of notes or obligations**

The time for the payment of all notes or obligations executed by purchasers of school land for the unpaid balance of principal due the state thereon which are due or will become due prior to November 1, 1966, is hereby extended to November 1, 1971, subject to all the pains and penalties provided in the Acts under which the purchases were made; provided that the extension of time herein granted shall apply only to installments of principal, and shall not apply to any installments of interest; and provided further, that the unpaid balances of principal upon which an extension of time for payment is hereby granted shall bear interest during said period of extension at the rate of one percent (1%) per annum higher than originally provided for, and past due installments of interest shall bear interest at the rate provided for in Section 7, Chapter 271, General Laws, Regular Session, 42nd Legislature. In cases wherein fifty percent (50%) or more of the balance of principal remaining unpaid has been paid by November 1, 1971, then a further extension until November 1, 1981, shall be granted for the payment of the remainder, subject to the conditions herein made to the extension to November 1, 1971. Acts 1961, 57th Leg., p. 901, ch. 399, § 1.

Effective 90 days after May 29, 1961, date of adjournment. Regulating sale or lease of school lands, see art. 5421c.

**Art. 5421h—1. Functions, officers, employees, records, etc., of State Reclamation Engineer transferred to General Land Office; office abolished**

**Repeal**

*Repeal of this article to extent of conflict with art. 5421h—2, see art. 5421h—2, § 3.*

Transfer of powers and duties to State Board of Water Engineers, see art. 5421h—2.

**Art. 5421h—2. Powers and duties of State Reclamation Engineer transferred to State Board of Water Engineers**

**Section 1.** All powers and duties formerly vested by law in the State Reclamation Engineer under the provisions of Chapters 5 and 6, Title 128, Revised Civil Statutes of Texas, 1925, as amended, and under any other provisions of General or Special Law, and all powers and duties of the former State Reclamation Engineer now vested by law in the Commissioner of the General Land Office by Senate Bill No. 281, Acts of the 46th Legislature, Regular Session, 1939, Title: Water, Chapter 1, page 704 (codified as Article 5421h—1, Vernon's Annotated Civil Statutes of Texas), hereinafter referred to as Chapter 1, shall be transferred to and vested in the State Board of Water Engineers on the first day of September, 1961, and shall thereafter be executed and performed by said Board, or the successor to the powers and duties of the State Board of Water Engineers. Every act performed in the execution of such powers and duties by the Board of Water Engineers shall be deemed to have the same force and effect as if done by the State Reclamation Engineer.

**Sec. 2.** Upon the taking effect of this Act, all books, papers, records, property (not needed by the General Land Office) and pending business theretofore made, used, acquired or conducted by the Commissioner of the General Land Office in the exercise of the powers and duties under said

Chapter 1 shall be transferred to and become the property and responsibility of the State Board of Water Engineers.

Sec. 3. The provisions of said Chapter 1 in conflict with this Act are repealed to the extent of such conflict only. Acts 1961, 57th Leg., p. 225, ch. 115.

Effective 90 days after May 29, 1961, date of adjournment. State Board of Water Engineers, see art. 7467 et seq.

Art. 5421j—2. Lease by city of Corpus Christi of submerged lands previously relinquished to city by state

Section 1. The City of Corpus Christi is hereby authorized and given the power and authority to lease those certain submerged lands described in Section 4 herein and heretofore relinquished by the State of Texas to the City of Corpus Christi, to any person, firm or corporation, owning lands, land fill or shore area adjacent to the described submerged lands, without restriction as to public or private use thereof, upon whatever terms and conditions the governing body of the City of Corpus Christi deems proper, for any period or term not to exceed fifty (50) years.

Sec. 2. The rights and appurtenances vesting in a Lessee of the City of Corpus Christi in and to those submerged lands shall be limited only by such limitations as might be imposed in the lease which the City of Corpus Christi deemed proper and in the best interest of the City of Corpus Christi; provided that any lease shall contain a provision prohibiting the Lessee, or assigns thereof, from erecting or maintaining thereon any structure or structures, such as buildings, with the exceptions of yacht basins, boat slips, piers, dry-docks, breakwaters, jetties or the like; and provided further that the right to use the waters embraced by the lease shall be reserved to the public, though the boat slips, piers, dry-docks, and the like may be limited to the private use of the Lessee.

Sec. 3. The power and authority granted hereunder to the City of Corpus Christi with respect to the submerged lands described in Section 4 may be exercised only after local referendum election at which a majority of those qualified and voting favor approving the passage of the ordinance authorizing such lease.

Sec. 4. This Act pertains to a strip of submerged land having dimensions of 500 feet by approximately 2050 feet, having as its West line the East line of the C. G. Glasscock 22.39 acre tract (as such tract is reflected on the map or plat prepared by J. M. Goldston under his certificate of September 8, 1954, and being a survey of the C. G. Glasscock property attached as Exhibit "A" to exchange deed between the City of Corpus Christi, Texas, and the said C. G. Glasscock dated February 2, 1955, recorded in Volume 674, Page 193 of the Deed Records of Nueces County, Texas); having as its East line a line run parallel to and 500 feet East of (measured at right angles) the East line of the C. G. Glasscock 22.39 acre tract above referred to; having as its South line an Easterly projection of the South line of the C. G. Glasscock 22.39 acre tract above referred to from the Southeast corner of said tract (identified by new 2" I.P.) to the point of intersection with the East line above referred to; and having as its North line an Easterly projection of the center line of Buford Street commencing with a new 2" I.P. located at the intersection of the extension of the center line of Buford Street with the East line of the C. G. Glasscock 22.39 acre tract and continuing along a projection of said center line to the point of intersection with the East line of this tract as above defined.

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Sec. 5. This Act shall not be construed to grant or convey to the City of Corpus Christi the title to any oil, gas or other mineral which was not already owned by the City of Corpus Christi at the enactment hereof.

Sec. 6. If any laws or parts of laws are in conflict with the provisions of this Act, then the provisions of this Act shall control. Acts 1961, 57th Leg., p. 1184, ch. 536.

Effective 90 days after May 29, 1961,  
date of adjournment.

Lease of submerged lands by certain  
cities, see art. 969a.

Lease, sale, option or conveyance of  
submerged lands, see art. 969a—1.

### Art. 5421k—3. Sale of land in Cayo Del Oso to city of Corpus Christi; validation

#### Confirmation and validation of sale

Section 1. The sale by the State of Texas to the City of Corpus Christi of 986.97 acres of land in Nueces County, known as Tract C, as shown on a map entitled Sheet No. 1, Laguna Madre, Subdivision for Mineral Development, dated November 1, 1948, and revised September 12, 1951, by addition of Cayo Del Oso Subdivision, which land is described by metes and bounds in that certain patent heretofore issued to said City, being Patent No. 158, Volume 29—B, dated June 11, 1959, is hereby in all things confirmed and validated so that all right, title and interest of the State of Texas in and to all of the land described in said patent, submerged and unsubmerged, shall be and is hereby relinquished, confirmed and granted unto the City of Corpus Christi, its successors and assigns, and such land shall be vested in the City of Corpus Christi subject only to the conditions, limitations and restrictions contained and imposed by the provisions of this Act, which shall entirely supersede the conditions and restrictions referred to in said patent.

#### Reservation of minerals and mineral rights to state for Permanent School Fund

Sec. 2. All minerals and mineral rights in, on and under said land are hereby reserved unto the State of Texas for the use and benefit of the Permanent School Fund, provided, however, that in the event of discovery of oil or gas in said land, drilling operations thereon shall be restricted so that not more than one well productive of oil or gas shall be drilled for each one hundred sixty (160) productive acres, and all operations at each such well shall be confined to an area or areas of four (4) acres at and including the well site.

#### Conflict of claims or boundaries

Sec. 3. In the event of any conflict or claim of conflict between the boundaries of the tract of land described in such patent and the boundaries or claimed boundaries of previously validly titled land owned or claimed by private persons, the City of Corpus Christi is hereby authorized in its own behalf and as agent for the State of Texas to take proper action to resolve such conflict or claim of conflict, without cost or expense, however, to the State of Texas. Without limiting the authority of said City otherwise herein granted or which it has by reason of its ownership, said City is hereby authorized to file suit in the name of the State of Texas to secure a judicial determination of said boundaries; and said City is further authorized to establish the boundaries between the tract covered by said patent and any adjoining private owner or claimant by agreement, which boundary agreement or agreements shall

be set forth in writing and shall be effective when approved by ordinance of said City adopted for such purpose. In the event of any change in the boundaries of said tract as a result of judicial decree or by agreement in accordance herewith, corrected field notes of said tract shall be filed in the General Land Office and a corrected patent shall be issued to the City of Corpus Christi, its successors and assigns, subject to the provisions of this Act.

**Improvement of land; title to land**

Sec. 4. The City of Corpus Christi, its agents or assigns shall improve such portions of the land covered by said patent or any corrected patent as such City, its agents or assigns, deem suitable and proper therefor. Such improvement shall consist of the raising or filling to a height of at least three (3) feet above the level of mean high tide, except for such part as may be devoted to channels, canals, or waterways. Title to any portion of such land (except that devoted to channels, canals, or waterways) that has not been so improved by filling to such height before July 1, 1965, shall revert to the State of Texas, and from and after that date neither said City nor its assigns shall have any right, title, claim, or interest to such portion which has not been so improved. No title shall revert, however, to the State of Texas as to any portion or portions which are filled to such height before July 1, 1965, including portions thereof which are devoted to channels, canals or waterways appurtenant to or used in connection with any portion so improved.

**Powers of city to convey or retain land; other powers**

Sec. 5. Said City may retain all or any part or parts of the land subject to this Act, and it may convey all or any part or parts of such land to others. As to each tract or parcel of land which the City conveys to another or others, each such conveyance or conveyances shall:

(A) Contain a condition subsequent, which shall provide that such grantee or grantees shall by the date specified in the conveyance, which date shall in no event be later than July 1, 1965, improve the particular tract or parcel of land included in such conveyance to the extent that it will be filled to a height of at least three (3) feet above mean high tide, except for such portions thereof as may be devoted to channels, canals or waterways. If the date specified in the conveyance is a date prior to July 1, 1965, such condition subsequent shall provide that if said condition is breached, title to the tract or parcel of land covered by said conveyance that is not so improved (except for such portions as may be devoted to channels, canals or waterways) shall revert to the City of Corpus Christi, and the right of re-entry retained by said City in the conveyance shall be immediately exercised; and said City may thereafter retain such portion or portions of such tract or parcel, or may convey such portion or portions in the same manner as provided above. If the date specified in the conveyance is July 1, 1965, such condition subsequent shall provide if said condition is breached, title to such portion or portions of the tract or parcel of land covered by said conveyance that are not so improved (except for such portions as may be devoted to channels, canals or waterways) shall revert to the State of Texas;

(B) Provide that such portion or portions of the tract or parcel of the land covered by the conveyance which have been so improved, including such portions thereof as may be devoted to channels, canals or waterways appurtenant to or used in connection with any portion so improved, shall, upon the written application to the City of Corpus Christi



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describing the improved area and the area devoted to channels, canals, or waterways appurtenant or used in connection therewith, be by the City by ordinance or resolution released of the condition subsequent and a proper recordable release shall be executed and delivered. Any such ordinance or resolution of said City shall be binding upon all parties concerned, including the State of Texas, as to the making of the improvements in accordance herewith.

**Plans and contracts for improvements; powers of city**

Sec. 6. The City of Corpus Christi is hereby authorized to prepare or approve plans for the improvements covered by this Act, and to make and enter into such agreements or contracts relating to such improvements as in the judgment of the governing body thereof may be necessary or desirable, and such agreements or contracts may be with grantees or prospective grantees of all or any portion of the land subject to this Act, or other parties.

**Repealer**

Sec. 7. The land subject to this Act, as identified in Section 1 hereof, shall henceforth be held subject to the provisions of this Act and all laws or parts of laws in conflict herewith are hereby repealed or modified to the extent of such conflict.

**Law cumulative**

Sec. 8. This Act shall be and is cumulative of all former grants and authorities from the State of Texas to the City of Corpus Christi. Acts 1961, 57th Leg., p. 1089, ch. 489.

Emergency. Effective June 17, 1961.

**Art. 5421m. Veterans' Land Board**

**Contract of sale; payments; transfer; deed**

Sec. 17. The sale of all lands hereunder by the Board may be properly initiated by Contract of Sale and Purchase, and said contract shall be recorded in the deed records in the County where the land is located. The purchaser shall make an initial payment of at least five per cent (5%) of the selling price of the property. The balance of said selling price shall be amortized over a period to be fixed by the Board, but not exceeding forty (40) years, together with interest thereon at a rate to be fixed by the Board, not to exceed four and one-half per cent (4½%) per annum; provided, however, that the purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided further, that in any individual case, the Board may, for good cause, postpone from time to time, upon such terms as the Board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The Board is empowered in each individual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this Act, but no property sold under the provisions of this Act shall be transferred, sold, or conveyed in whole or in part, until the original veteran purchaser has enjoyed possession for a period of three (3) years from the date of purchase of said property, and complied with all the terms and conditions of this Act and the rules and regulations of the Board; provided, however, that should the veteran purchaser die or become financially incapacitated by reason of illness or accident, the property may be conveyed before the expiration of said three (3) years by said purchaser

or his heirs, administrators, or executors. After said three-year period, a purchaser may at any time, transfer, sell or convey land purchased under the provisions of this Act, provided all mature interest, principal and taxes have been paid and the terms and conditions of this Act and the rules and regulations of the Board have been met; provided, however, if the sale is to other than a qualified Texas veteran, the assignee and all subsequent assignees shall assume an interest rate on the indebtedness to the Board to be fixed by the Board at not less than five per cent (5%) per annum; provided further, that property sold under the provisions of this Act may be transferred, sold or conveyed at any time after the entire indebtedness due the Board has been paid. Any land purchased under the provisions of this Act may not be leased by the purchaser for any term exceeding ten (10) years except for oil, gas or other minerals and so long thereafter as any minerals may be produced therefrom in commercial quantities, and no such lease shall contain any provision for option or renewal of such lease or re-lease of such property for any term. The taking of any option, renewal or re-lease agreement in a separate instrument to take effect in the future is prohibited; and any such lease or instrument containing such an option, renewal or re-lease agreement executed after the effective date of this Act in violation hereof is expressly declared to be void. When the entire indebtedness due the State under the contract of sale is paid, the Board shall execute a deed under its seal to the original purchaser of the land or to the last assignee whose assignment has been approved by the Board. If a deed should be executed to other than the legal owner, such deed and the rights conveyed therein shall inure to the benefit of the legal owner. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 7; Acts 1955, 54th Leg., p. 1597, ch. 520, § 6; Acts 1957, 55th Leg., p. 491, ch. 238, § 6; Acts 1961, 57th Leg., p. 572, ch. 269, § 1.

Emergency. Effective June 1, 1961.

**Resale of forfeited land; forfeiture of successful bidder's deposit**

Sec. 19(A). The resale of land which has been forfeited under the provisions of this Act may be made to the highest bidder; provided, however, that sales shall be made to qualified purchasers as provided for in Article III, Section 49b of the Constitution of the State of Texas and under terms and conditions and at such time and in such manner as the Board may prescribe in its rules and regulations, any provisions of this Act to the contrary notwithstanding, and the Board shall have the right to reject any and all bids. If the successful bidder refuses to execute a contract of sale and purchase, all moneys submitted with his bid shall be forfeited and deposited in the State Treasury and credited to the Veterans' Land Board Special Fund. Added Acts 1955, 54th Leg., p. 1597, ch. 520, § 9, as amended Acts 1957, 55th Leg., p. 491, ch. 238, § 8; Acts 1961, 57th Leg., p. 572, ch. 269, § 2.

Emergency. Effective June 1, 1961.

**Rules and regulations; forms; forfeitures; fees for processing and servicing applications**

Sec. 21. The Board is hereby authorized and empowered to make and promulgate such rules and regulations under this Act, and not inconsistent herewith, as it shall deem to be necessary or advisable. Such rules and regulations shall be considered a part of this Act and any violation thereof shall subject the offender to prosecution under the provisions of Section 32 hereof. The Board shall likewise have the power to prescribe the form and contents of all notices, bids, applications, awards,

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contracts, deeds or instruments whatsoever in any manner used by it in so carrying out such project and plan when the same shall not be in conflict with the law. The Board is hereby made the sole judge of forfeiture of any purchase contract under this Act, and anyone availing himself of the provisions of this Act shall by so doing agree to abide by the same; and should the Board declare a forfeiture under said purchase contract, then the purchaser shall vacate the premises within forty-five (45) days after the date of letter giving notice of such declaration, such letter to be forwarded by registered mail to the last known address of such purchaser.

The Board is hereby authorized and required to collect a fee of Seventy-five Dollars (\$75) from each applicant under Section 16 of this Act and a fee of Twenty-five Dollars (\$25) from each successful bidder under Section 19(A) of this Act, which fees shall be held in a trust fund to be used for the purpose of payment for examination of title, recording fees and/or other expenses; and any unused balance remaining after payment for such items shall be refunded except as provided in Section 19(A) of this Act.

The Board is further authorized and required to charge and collect for the use of the State the following fees for the processing and servicing of purchase applications and Contracts of Sale and Purchase and matters incidental thereto. Any such fees, or a portion thereof, which in the opinion of the Board are unused shall be refunded.

1. Fee for each appraisal for each application under Section 16 of this Act \$25.00
2. Contract of Sale and Purchase transfer fee for each transfer \$25.00
3. Mineral lease service fee for each lease executed by purchasers \$ 7.50
4. Reappraisal fee when required by the Board \$25.00
5. Fee for each loan of abstract \$ 5.00
6. Fee for servicing and filing each easement \$ 7.50
7. Service fee for each Contract of Sale and Purchase \$25.00
8. Fee for homesite, severance, or paid-in-full deed \$10.00

All moneys received by payment of the above fees and not refunded shall be deposited in the State Treasury and credited to the Veterans' Land Board Special Fund and shall be expended as provided in the biennial appropriation bill. As amended Acts 1955, 54th Leg., p. 1597, ch. 520, § 10; Acts 1957, 55th Leg., p. 491, ch. 238, § 9; Acts 1961, 57th Leg., p. 572, ch. 269, § 3.

Emergency. Effective June 1, 1961.

## TITLE 87—LEGISLATURE

Art. 5429f. Legislative Reorganization Act of 1961 [New].

## Art. 5429. [5515] [3281] Selection of Officers

When an election for Speaker shall have been had, the Speaker-elect shall immediately take the Chair, and the House shall proceed to its further organization by choosing the necessary officers, to whom the Speaker shall administer the official oath. As amended Acts 1961, 57th Leg., p. 654, ch. 303, § 3.

Emergency. Effective June 14, 1961.

Sections 1, 2, 4-8, 10-21 of the amendatory act of 1961 enacted the Legislative Reorganization Act of 1961. See, art. 5429f.

Section 23 of the act amended Vernon's Ann.P.C. art. 306.

Section 9 of the act amended art. 5429e.

Section 24 of the act repealed art. 5429a.

Section 22 of the act amended Vernon's Ann.P.C. art. 302.

## Art. 5429a. Repealed. Acts 1961, 57th Leg., p. 654, ch. 303, § 24. Eff. June 14, 1961

See, now, art. 5429f.

## Art. 5429e. Membership on Interim Committees

Section 1. The membership of any duly appointed Senator or Representative on the Legislative Budget Board or on the Legislative Council, or on any other Interim Committee, shall, on the following contingencies, terminate, and the vacancy created thereby shall be immediately filled by appointment for the unexpired term in the same manner as other appointments to the Legislative Budget Board, the Legislative Council, or the other Interim Committee, as the case may be, are made:

(a) Resignation of such membership;

(b) Cessation of membership in the Legislature for death or any reason. As amended Acts 1961, 57th Leg., p. 654, ch. 303, § 9.

Emergency. Effective June 14, 1961.

Sections 1, 2, 4-8, 10-21 of the amendatory act of 1961 enacted the Legislative Reorganization Act of 1961. See, art. 5429f.

Section 3 of the act amended art. 5429.

Section 22 of the act amended Vernon's Ann.P.C. art. 302.

## Art. 5429f. Legislative Reorganization Act of 1961

## Short Title

Section 1. This Act shall be known and cited as the "Legislative Reorganization Act of 1961."

## Purpose

Sec. 2. The people of Texas having adopted an Amendment to the Constitution in November, 1960, providing for annual salaries to Members of the Legislature, it is the purpose and intent of the Legislature to place its activities on a continuing basis to the end that the responsibilities imposed by law on the Legislature, and on the Members thereof, will be conducted on a more efficient basis and, to the extent possible, without regard to the formal Sessions of the Legislature. The Legislature feels

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that the functions of government must be conducted on a full-time basis, and it is the purpose of this Act to authorize the committees and other instrumentalities of the Legislature to continue their work and carry on their responsibilities with some degree of continuity whether or not the Legislature is convened in formal Session.

#### Selection of Officers

Sec. 3. Article 5429 of the Revised Civil Statutes of the State of Texas be and same is hereby amended <sup>94</sup> so as hereafter to read as follows:

#### Selection of Committees

Sec. 4. Each House of the Legislature shall have authority, by adoption of its Rules of Procedure or by Simple Resolution, to determine the number, composition, function, membership, and authority of its committees, and the two Houses acting together by Concurrent Resolution shall have similar authority with respect to committees created jointly by the two Houses.

#### Function of Standing Committees

Sec. 5. Standing committees of each House of the Legislature shall be and they are hereby charged with the duty and responsibility of formulating legislative programs, initiating legislation, and making inquiry into the administration and execution of all laws pertaining to the matters within the jurisdiction of such committee. Each standing committee shall make a continuing study of the matters under its jurisdiction, as well as the instrumentalities of government administering or executing such matters, and shall conduct such investigations as the committee deems necessary to supply it with adequate information and material to discharge its responsibilities. To the extent that each standing committee shall deem it necessary and desirable, it shall draft legislation within the area of its jurisdiction and shall recommend such legislation to whichever House of the Legislature such committee is a part. It shall be the duty of the Chairman of each standing committee to introduce, or cause to be introduced, the legislative programs developed by such committee and to mobilize the efforts of such committee to secure the enactment into law of the proposals of such committee. No standing committee of either House of the Legislature shall be confined in its legislative endeavors to bills, Resolutions or proposals submitted to it by individual Members of the Legislature, but each standing committee shall have full authority and responsibility to seek out problems within its area of jurisdiction and to develop, formulate, initiate and secure passage of legislative programs which the committee deems desirable in its approach to such problems.

#### Meetings of Standing Committees

Sec. 6. To the extent practicable when the Legislature is in session, each standing committee shall conduct regular committee meetings in accordance with the Rules of Procedure and other requirements of its respective House of the Legislature. Each standing committee shall meet at such other times as may be determined by the committee. When the Legislature is not in session, to the extent authorized by the respective Houses by Resolution, each committee shall have full power and authority to determine the times and places it shall meet. Each committee shall meet as often as necessary to transact effectively the business of such committee. Unless otherwise determined by the committee, all committee meetings shall be in Austin, but such committee may meet elsewhere within the State of Texas if authorized by Resolution of the House creating such committee and if deemed necessary by the committee for the orderly transaction of its business.

**Special Committees**

Sec. 7. Each House of the Legislature acting individually, or the two Houses acting jointly, shall have full power and authority to provide for the creation of special committees to perform such functions and to exercise such powers and responsibilities as shall be determined in the Resolution creating such committee. During the life of a special committee, it shall have and exercise the same powers and authority as are herein granted to standing committees, subject to such limitations as may be imposed in the Resolution creating such special committee, and shall have such other and additional powers and authority as may be delegated to it by the Resolution creating the committee, subject to the limitations of law.

**General Investigating Committees**

Sec. 8. (a) There is hereby authorized to be created by Resolution of the respective Houses, a General Investigating Committee of the Senate and a General Investigating Committee of the House of Representatives. Each Committee shall consist of five (5) members. The five (5) Senate members shall be appointed by the President of the Senate who shall also designate a Chairman, and the five (5) Representatives shall be appointed by the Speaker of the House of Representatives, who shall also designate a Chairman. All members shall serve for a term beginning with the respective dates of their appointment and ending with the convening of the next Regular Session of the Legislature following their appointment. The five (5) Representatives heretofore appointed by the Speaker of the House of Representatives pursuant to House Simple Resolution No. 50 shall constitute the House General Investigating Committee for the Fifty-seventh Legislature, and the five (5) Senators to be appointed by the President of the Senate shall constitute the Senate General Investigating Committee for the Fifty-seventh Legislature, and each member of such Committees shall serve for a term beginning with the respective dates of their appointment and ending with the convening of the Regular Session of the Fifty-eighth Legislature.

(b) If such Committees hereinabove authorized are created, the following provisions shall apply to the General Investigating Committee of the Senate and to the General Investigating Committee of the House of Representatives, as the case may be, each of which is hereinafter referred to as the Committee.

(1) Each Committee may begin its work as soon as it desires after its members are appointed. The Committee shall elect from among its members a Vice-Chairman and a secretary. Said Committee shall meet, organize and promulgate the rules and procedure by which it shall function. It shall have full freedom to determine the times and places when and where it shall meet, both during the Regular Session, any Called Sessions, and during any interim between Sessions. Any vacancy on said Committee shall be filled in the same manner as the other members were appointed. The Committee shall have full authority to continue or initiate any and all inquiries and hearings into matters pertaining to the State Government and any agency or subdivision of Government within the State of Texas, the expenditure of public funds at any and all levels of government within the State, and all other matters and things considered by said Committee to be needed for the information of the Legislature or for the welfare and protection of the citizens of the State of Texas. A majority of the Committee shall constitute a quorum.

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(2) Each Committee shall adopt its own rules of evidence and procedure and such other rules and regulations as may be necessary to govern the hearings and affairs of the Committee, which are not inconsistent with Section 13 of this Act. Joint Rules may be adopted for joint hearings of the Committees.

(3) The Committee shall keep a record of its proceedings, and it shall have the power to hold such meetings as it may deem necessary and at any place in the State of Texas. The Committee shall also have power to issue process to witnesses, at any place in this State, to compel their attendance, and the production of all books, records and instruments, to issue attachments where necessary to obtain compliance with subpoenas or other process, which may be addressed to and served by either the Sergeant-at-Arms appointed by the said Committee or by any peace officer of this State; and to cite for contempt, and cause to be prosecuted for contempt, anyone disobeying the subpoenas or other process lawfully issued by it in the manner and according to the procedures provided in this Act and by any other provisions of General Law. The Chairman of the Committee shall issue, in the name of the Committee, such subpoenas as a majority of the Committee may direct. The Committee is hereby authorized to request the assistance of the State Auditor's Department, the Texas Legislative Council, the Department of Public Safety, the Attorney General's Department and all other State agencies and officers, and it shall be the duty of said departments, agencies and officers to assist the Committee when requested to do so. The Committee shall have the power to inspect the records, documents and files of every State department, agency and officer, and of all municipal, county or other political subdivisions of the State, and to examine into their duties, responsibilities and activities.

(4) Witnesses attending proceedings of said Committee under process shall be allowed the same mileage and per diem as is allowed witnesses before any grand jury in this State. Their testimony shall be under oath and subject to the privileges of Article 1289 of Vernon's Penal Code of the State of Texas.

(5) Three (3) or more members of the Committee shall constitute a quorum for the transaction of business and the Chairman or other presiding officer of the Committee shall have power to administer oaths and affirmations.

(6) The Committee shall have authority to employ and compensate assistants to assist in any investigation, to assist in any audits, and to assist in any legal matters where, for any reason, it is necessary to obtain such services in addition to the services of the State Auditor, the Texas Legislative Council and Attorney General's Department, and the Department of Public Safety; and it may employ and compensate clerks, stenographers and other employees in order to conduct its investigations and hearings and to make proper records thereof. However, it is expressly provided that no employment or compensation shall be authorized until it has been first submitted to the Speaker of the House or the President of the Senate, as the case may be, and he has authorized it in writing.

(7) The Committee shall make such reports to the Members of the Legislature as it may deem necessary and appropriate.

(8) Members of the Committee shall be reimbursed for their actual and necessary expenses incurred while engaged in the work of the Committee and while traveling between their places of residence and the places where meetings of the Committee are held. Compensation of the Committee's employees, expenses incurred by members of the Committee, and all

other expenses of the Committee shall be paid out of any appropriation for mileage and per diem and contingent expenses of the Legislature.

(c) Upon a majority affirmative vote of each Committee, the Committees may conduct hearings and inquiries jointly; otherwise each shall operate severally. Provided, however, should a Committee conduct investigations without the active participation of the other, current liaison will be effected to the Chairman of the inactive Committee so as to fully inform of the nature and progress of the inquiry. In the event of joint inquiries or investigations the Chairman of the Senate Committee shall be Chairman of the Joint Committee and the Chairman of the House Committee shall be Vice-Chairman. Seven (7) members shall constitute a quorum of a Joint Committee.

#### Administering Oaths

Sec. 10. The President of the Senate, the Speaker of the House of Representatives, the Chairman or Acting Chairman of any standing or special committee of either House of the Legislature, or the Chairman or Acting Chairman of any Joint Committee created by the two Houses, shall have authority and is empowered to administer oaths to all witnesses offering testimony on any matter under consideration. Any Member of either House of the Legislature, when circumstances so require, shall have authority and is empowered to administer oaths to all witnesses offering testimony on any matter pending in either House of the Legislature of which he is a Member, or any committee thereof.

#### Oath Required

Sec. 11. All committees of the Legislature, or of either House thereof, whether standing or special, and whether created by a single House or by the joint action of both Houses, shall require all witnesses to give their testimony under oath, subject to the penalties of perjury as herein provided, unless such oath shall be waived by the committee.

#### Process for Witnesses

Sec. 12. Each committee of the Legislature, or of either House thereof, standing or special, when authorized by Resolution or by Rule of Procedure of the House or Houses creating such committee, shall have the power and authority to issue process to witnesses at any place in the State of Texas, to compel the attendance of such witnesses, and to compel the production of all books, records, documents and instruments as the committee shall require; and if necessary to obtain compliance with subpoenas and other process issued by the committee, each committee shall have the power to issue writs of attachment. All process issued by a committee may be addressed to and served by any Peace Officer of the State of Texas or any of its political subdivisions or may be served by a Sergeant-at-Arms appointed by such committee. The Chairman shall issue in the name of the committee such subpoenas and other process as the committee shall determine.

#### Refusal to Testify

Sec. 13. No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he shall be examined by either House of the Legislature, or by any Committee of either House, upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous. Any person called upon to testify or to give testimony or to produce papers upon any matter under inquiry before either House or in the committee of either House of



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the Legislature or Joint Committee of both Houses, who refuses to testify, give testimony or produce papers upon any matter under inquiry upon the ground that his testimony or the production of papers would incriminate him, or tend to incriminate him, shall nevertheless be required to testify and to produce papers but when so required, over his objections for the reasons above set forth, such person shall not be subject to indictment or prosecution for any transaction, matter or thing concerning which he truthfully testified or produces evidence, documentary, or otherwise. Any person testifying before the Legislature or any committee thereof shall have the right to counsel.

#### **Contempt of the Legislature**

Sec. 14. Every person who, having been summoned as a witness by the authority of either House of the Legislature, or by any committee of either House, or by any Joint Committee of both Houses, to give testimony or produce papers upon any matter under inquiry before either House, or any committee thereof, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the matter under inquiry, or refuses to produce any books, papers, records or documents, as required, when ordered to do so, shall be deemed guilty of a misdemeanor known as Contempt of the Legislature, and on conviction thereof, shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) and by imprisonment in jail for not less than thirty (30) days nor more than twelve (12) months.

#### **Prosecution for Contempt**

Sec. 15. Whenever a witness summoned as mentioned in Section 12 hereof fails to appear to testify, or fails to produce any books, papers, records or documents, as required, or whenever any witness so summoned refuses to answer any questions pertinent to the subject under inquiry before either House of the Legislature, or any committee thereof, and the fact of such failure or failures is reported to either House while the Legislature is in session, or when the Legislature is not in session, a statement of facts constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, as the case may be, it shall be the duty of the said President of the Senate or the Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the Seal of the Senate or the House, as the case may be, to the District Attorney of Travis County, Texas, whose duty it shall be to bring the matter before the Grand Jury for its action, and it shall further be the duty of said District Attorney to see that any indictment returned by the Grand Jury is prosecuted in the manner prescribed by law.

#### **Perjury**

Sec. 16. Every person appearing as a witness before either House of the Legislature, or any committee thereof, or any Joint Committee of the two Houses, and who testifies before such House or such Committee, as the case may be, by either written or verbal testimony, and who deliberately and willfully makes a false statement, when such testimony is given under oath or affirmation as authorized by law and as required by such House or such Committee, shall be deemed guilty of perjury, and on conviction thereof, shall be punished by imprisonment in the penitentiary not less than two (2) nor more than ten (10) years.

#### Fees to Witnesses

Sec. 17. Witnesses attending proceedings of either House of the Legislature, or any committee thereof, under process of such House or such committee, shall be allowed the same mileage and per diem as is allowed witnesses before any Grand Jury in the State of Texas, such mileage and such per diem to be paid from the Contingent Expense Fund of the respective House of the Legislature, or the Committee thereof, before whom such proceedings are pending.

#### State Agencies to Co-operate

Sec. 18. Each standing committee is hereby authorized and empowered to request the assistance, where needed in the discharge of its duties, of the State Auditor's Department, the Texas Legislative Council, the Texas Department of Public Safety, the Attorney General's Department, and all other State agencies, departments, and offices, and it shall be the duty of such departments, agencies and offices to assist each such Committee when requested to so do. Each Committee shall have the power to inspect the records, documents and files of every department, agency and office of the State, to the extent necessary to the discharge of its duties within the area of its jurisdiction.

#### Committee Staff

Sec. 19. Each House of the Legislature is hereby authorized to provide, from its Contingent Expense Fund, for necessary committee clerks, clerical assistance, and staff to each Committee created by such House.

#### Expenses of Committee

Sec. 20. Members of all committees of either House of the Legislature, or the Joint Committees of the two Houses, shall be reimbursed for their actual and necessary expenses incurred while engaged in the work of the Committee and while traveling between their places of residence and the places where meetings of such Committee are held. Such reimbursement to members of the Committee shall be authorized only when the Legislature is not in session, unless otherwise directed by the House of the Legislature creating such Committee. All such expenses of the Committee and its members shall be paid from the appropriation for mileage and per diem and the contingent expenses of the Legislature. All such expenses shall be approved by the Chairman of the Committee and by the presiding officer of the respective House, before payment shall be authorized.

#### Contingent Expenses

Sec. 21. Each House of the Legislature is hereby authorized to provide for the contingent expenses of its Members for the entire term of office for which they have been elected, and it is also authorized to appropriate such money as may be necessary to pay all salaries, per diem and other expenditures authorized by law. Provided, however, that the appropriation shall specify separate appropriations for the House of Representatives and the Senate, and the Comptroller shall keep the accounts separate and distinct and no money may be transferred from one account to the other except by law. Acts 1961, 57th Leg., p. 654, ch. 303.

Emergency. Effective June 14, 1961.

Section 3 of Acts 1961, 57th Leg., p. 654, ch. 303, amended art. 5429; section 9 amended art. 5429e; section 22 amended

Vernon's Ann.P.C. art. 302; section 23 amended Vernon's Ann.P.C. art. 306; section 24 repealed art. 5429a.

**TITLE 89—LIBRARY AND HISTORICAL COMMISSION**

**Art. 5435. [5599] Purpose; powers and duties of commission; director and librarian**

The appointed members of the Commission shall be responsible for the adoption of all policies, rules and regulations so as to aid and encourage libraries, collect materials relating to the history of Texas and the adjoining states, preserve, classify and publish the manuscript archives and such other matters as it may deem proper, diffuse knowledge in regard to the history of Texas, encourage historical work and research, mark historic sites and houses and secure their preservation, and aid those who are studying the problems to be dealt with by legislation. The Commission shall appoint a Director and Librarian who shall perform all of the duties heretofore provided for the State Librarian, and all authority, rights and duties heretofore assigned by statute to the State Librarian are hereby transferred to and shall be performed by the Director and Librarian. He shall be the Executive and Administrative Officer of the Commission and shall discharge all administrative and executive functions of the Commission. He shall have had at least two years' training in library science or the equivalent thereof in library, teaching or research experience and shall have had at least two years of administrative experience in library, research or related fields. The Director and Librarian shall serve at the will of the Commission and shall give bond in the sum of Five Thousand Dollars (\$5,000) for the proper care of the State Library and its equipment. He shall be allowed his actual expenses when travelling in the service of the Commission on his sworn account showing such expenses in detail. The Director and Librarian shall appoint, subject to the approval of the Commission, an Assistant State Librarian, a State Archivist, and such other assistants and employees as are necessary for the maintenance of the Library and Archives of the State of Texas. As amended Acts 1961, 57th Leg., p. 1064, ch. 476, § 1.

Emergency. Effective June 17, 1961.

Section 2 of the amendatory Act of 1961 repealed art. 5440.

**Art. 5440. Repealed. Acts 1961, 57th Leg., p. 1064, ch. 476, § 2. Eff. June 17, 1961**

See, now, art. 5435.

## TITLE 90—LIENS

## CHAPTER ONE—JUDGMENT LIEN

Art. 5451. [5620] [3293] Federal court judgments.

*Repeal of fee provisions, see art. 3930a, note.*

CHAPTER TWO—MECHANICS, CONTRACTORS  
AND MATERIAL MEN

Art.

5472d. Bond to pay liens or claims [New].

Art. 5452. [5621] [3294] Lien prescribed

1. Any person or firm, lumber dealer or corporation, artisan, laborer, mechanic or sub-contractor who may labor, specially fabricate material, or furnish labor or material: (a) for the construction or repair of any house, building or improvement whatever; (b) for the construction or repair of levees or embankments to be erected for the reclamation of overflow lands along any river or creek; (c) or for the construction or repair of any railroad: within this state under or by virtue of a contract with the owner, owners, or his or their agent, trustee, receiver, contractor, contractors, or with any subcontractor; upon complying with the provisions of this Chapter shall have a lien on such house, building, fixtures, improvements, land reclaimed from overflow, or railroad and all of its properties, and shall have a lien on the lot or lots of land necessarily connected therewith, or reclaimed thereby, to secure payment: (a) for the labor done or material furnished or both for such construction or repair; (b) for specially fabricated material even though such material has not been delivered or incorporated into such construction or repair, less its fair salvage value. The word "improvement" as used herein shall be construed so as to also include: abutting sidewalks and streets and utilities therein; clearing, grubbing, draining or fencing of land; wells, cisterns, tanks, reservoirs or artificial lakes or pools made for supplying or storing water; all pumps, siphons, and windmills or other machinery or apparatus used for raising water for stock, domestic use or for irrigation purposes; and the planting of orchard trees, grubbing out of orchards and replacing trees, and pruning said orchard trees. If the abutting sidewalks and streets and utilities therein are public property, such lien shall be applicable to the property of the owner and shall be exclusive of the public property.

2. For the purposes of this Act, the following definitions shall apply:

a. Labor is to be construed to mean labor used in the direct prosecution of the work.

b. The words "material," "furnish material" or "material furnished" as used in this Act are to be construed to mean any part or all of the following:

(1) Material, machinery, fixtures or tools incorporated in the work, or consumed in the direct prosecution of the work, or ordered and delivered for such incorporation or such consumption.

(2) Rent at a reasonable rate and actual running repairs at a reasonable cost for construction equipment, used in the direct prosecution of

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the work at the site of the construction or repair, or reasonably required and delivered for such use.

(3) Power, water, fuel and lubricants, when such items have been consumed or ordered and delivered for consumption in the direct prosecution of the work.

c. Specially fabricated material is defined as material fabricated for use as a component part of the construction or repair so as to be reasonably unsuitable for use elsewhere, even though such material may not be delivered.

d. The work shall be construed as any construction or repair referred to in paragraph 1 of this Article.

e. An original contractor is defined as one contracting with an owner, directly or through his agent; and an original contract is defined as an agreement to which an owner is a party, either directly or by implication of law. There may be one or more original contractors.

f. A subcontractor is any person or persons, firm or corporation who has furnished labor or materials or both as defined above to fulfill an obligation to an original contractor or to a subcontractor to perform all or part of the work required by an original contract. A subcontractor shall have a right to claim a lien, but the amount of such lien claim, together with the sum of the previous payments received by claimant on such subcontract, shall not exceed that proportion of the total subcontract price which the sum of the labor performed, materials furnished, specially fabricated materials, reasonable overhead costs incurred and proportionate profit margins bears to the total subcontract price.

g. Retainage as referred to in this Act (other than the statutory retainage prescribed by Article 5469) is defined as any amount representing any part of the contract payment or payments which are not required to be paid to the claimant within the month next following each month in which the labor was performed, or material furnished, or both; or specially fabricated material was delivered. No lien for retainage as here defined shall be valid to an extent greater than the amounts specified to be retained in the contract or contracts between the claimant and the original contractor or between the claimant and a subcontractor. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Sections 2—9 of the act of 1961 amended various articles of this chapter.

Section 10 of the act added article 5472d.

Sections 11 and 12 of the act provided:

"Sec. 11. Articles 5457, 5461, 5462, and 5465 of Title 90 of the Revised Civil Statutes of Texas, 1925, are hereby repealed; however, the rights, duties and obligations of parties arising under or incidental to contracts between owners and original contractors, subcontracts thereunder and

labor done, or materials furnished pursuant thereto, when the contract between the owner and the original contractor shall have been made before the effective date of this Act shall continue to be governed by the law heretofore applicable.

"Sec. 12. The provisions of this Act shall apply only to all contracts between owners and original contractors, subcontracts thereunder and labor done, materials furnished or materials specially fabricated, pursuant thereto, when the contract between the owner and the original contractor shall have been made on or after the effective date of this Act."

#### Art. 5453. [5622-3] Securing lien

The lien provided for in Article 5452 may be fixed and secured in the following manner:

1. Every original contractor, not later than one hundred twenty (120) days, and every other person or firm, lumber dealer or corporation, artisan, laborer, mechanic or subcontractor who may be entitled to a lien

under this Act, not later than ninety (90) days, after the indebtedness accrues as defined hereinafter in Article 5467, shall file his affidavit claiming a lien, to be recorded in a book kept by the county clerk for that purpose in the office of the county clerk of the county in which such property is located or through or into which such railroad may extend, and he shall send to the owner by certified or registered mail, addressed to his last known business or residence address, two (2) copies of such affidavit claiming a lien. The county clerk shall index and cross-index such affidavit in the names of the claimant, the original contractor and the owner. So long as the claim for a lien has been filed with the county clerk, failure of the county clerk to comply with these instructions shall not invalidate the lien.

2. If the claimant for such lien is other than an original contractor, such claim shall not be valid or enforceable unless the claimant shall also have complied with the applicable notice requirements hereafter set forth which shall be conditions precedent to the validity of such claims:

a. If any agreement providing for retainage exists between the claimant and the original contractor or between the claimant and any subcontractor, whereby the claimant is to labor, or furnish labor or material, or both, or to specially fabricate material, such claimant may give written notice to the owner not later than thirty-six (36) days after the tenth (10th) day of the month next following the making of such agreement, that there has been agreed upon between the claimant and such contractor, or such subcontractor, such retention of funds. A copy of such notice shall also be given in like manner to the original contractor in instances where the agreement is between claimant and a subcontractor. The notice shall be sent by certified or registered mail addressed to the owner, and when required by this paragraph, to the original contractor, at their last known business or residence address. The notice shall state the sum to be retained, the due date or dates, if known, and shall indicate generally the nature of such agreement. If a retainage agreement consists in whole or in part of an obligation to furnish specially fabricated materials and the notice or notices have been given in accordance with this subparagraph, it shall not be necessary for a claimant to give a notice or notices under subparagraph 2-c of this Article. When claimant has complied with this subparagraph, no further notice or notices shall be required of him as to such retainages except the notice or notices specified in paragraph 1 of this Article; provided, however, the claimant may, at his option, elect to give the notice or notices specified in subparagraph 2-b of this Article at the time and in the manner therein required in lieu of or in addition to any notices under this subparagraph.

b. Excepting instances of retainages for which notices have been given in accordance with the preceding subparagraph, the claimant shall give the applicable notice or notices described, as follows:

(1) Where the claim consists of a lien claim arising from a debt incurred by a subcontractor, the claimant shall give written notice of the unpaid balance of such claim to the original contractor not later than thirty-six (36) days after the tenth (10th) day of the month next following each month in which claimant's labor was done or performed in whole or in part or his material delivered in whole or in part; and claimant shall give a like notice to owner not later than ninety (90) days after the tenth (10th) day of the month next following each month in which the claimant's labor was done or performed in whole or in part or his material delivered in whole or in part.

(2) Where the claim consists of a lien claim arising from a debt incurred by the original contractor, no such notice need be given to the

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contractor but notice to the owner, as prescribed in paragraph 2b(1) of this Article will be sufficient.

Such notices shall be sent by certified or registered mail, addressed to the owner, and where required by this Article to the original contractor, at their last known business or residence address. A copy of the statement or billing in the usual and customary form shall suffice as a notice under this subparagraph; provided, however, if such statement or billing is to be effective to authorize an owner to retain funds for the payment of such claim as provided in Article 5463 of this Act, it shall contain or be accompanied by some form of statement to an owner to the effect that if the bill remains unpaid he may be personally liable and his property subjected to a lien unless he withholds payments from the contractor for the payment of such statement or unless the bill is otherwise paid or settled.

c. If the basis of the claim is to be for a specially fabricated item or items, as described in Article 5452 hereof, the claimant may give written notice to the owner not later than thirty-six (36) days after the tenth (10th) day of the month next following the receipt and acceptance of an order for such specially fabricated material, that such an order has been received and accepted, together with the price thereof; provided, however, that in instances where the indebtedness for such items were incurred by one other than an original contractor, a copy of such written notice shall also be given within the same time to the original contractor. Further notice or notices shall be given by a claimant under this subparagraph, if and when a delivery or deliveries have been made or if and when the normal delivery time on the job has passed, such further notice or notices to be in accordance with the terms and provisions of subparagraph 2-b of this Article; provided, nevertheless, if claimant has failed to give notice or notices under this subparagraph but delivers specially fabricated material, under an order accepted by him, then as to such delivered items, his claim shall be valid, provided he gives the notice or notices required in subparagraph 2-b of this Article. A delivery of specially fabricated materials, for the purpose of such notices shall constitute a delivery of materials under subparagraph 2-b of this Article. Such notices shall be sent by certified or registered mail addressed to the owner, and where required by this Article to the original contractor, at their last known business or residence address.

3. A claimant desiring to demand payment of his claim by the owner may accompany his notice of such claim with the demand for payment as prescribed by Article 5454. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 2.

Effective 90 days after May 29, 1961, date of adjournment. State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.  
Applicability of 1961 amendment, see note under art. 5452.

#### Art. 5454. [5634] [3307] Owner to pay undisputed claim

Whenever an owner has withheld a payment or payments from the original contractor pursuant to the provisions of Article 5463 of this Act, and claimant shall have given written notice to the owner that his claim or any portion thereof, either has accrued under the terms of Article 5467 or is past due according to the agreement between the parties; claimant may make written demand of the owner, a copy of which shall be sent to the contractor, for payment by owner of such claim and if the contractor shall not, within thirty (30) days after said demand is received by contractor notify the owner in writing that the contractor intends to dispute such claim, the contractor shall be considered as having assented to the

demand which shall thereupon be paid by the owner. The demand herein provided for may accompany the original notice of nonpayment or of a past-due claim; may be stamped or written on the face of said notice in legible form; or may be subsequently given by claimant, provided, however, that no such demand shall be made after the time has expired within which the claimant may secure his lien under this Act unless a lien for such demand has been secured. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 3.

Effective 90 days after May 29, 1961, date of adjournment. Applicability of 1961 amendment, see note under art. 5452.

#### Art. 5455. [5624] [3297] Form of claim

An affidavit claiming a lien filed for record by any one claiming the benefit of this Act shall be signed by the claimant or by some person on his behalf and shall contain in substance the following:

a. A sworn statement of his claim, including the amount thereof. A copy of the written agreement or contract, if any, may be attached at the option of the claimant.

b. The name of the owner or reputed owner, if known.

c. A general statement of the kind of work done or materials furnished by him, or both. It shall not be necessary to set forth the individual items of work done or material furnished or specially fabricated. Any abbreviations or symbols customary in the trade may be used.

d. The name of the person by whom claimant was employed, or to whom he furnished the materials or labor, and the name of the original contractor.

e. A description of the property sought to be charged with the lien legally sufficient for identification. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 4.

Effective 90 days after May 29, 1961, date of adjournment. Applicability of 1961 amendment, see note under art. 5452.

#### Art. 5456. [5625] [3298] Notice and mailing requirement

1. Where any written notice or communication is required or permitted to be given by this Act, it may be delivered in person to the party or his agent and such delivery shall constitute compliance irrespective of other methods of notice or communications herein provided.

2. In instances where notice or mailing is sent by certified or registered mail, the deposit of such notice or mailing in the United States Mails, in the form required, shall, except where it is specified in this Act that the notice shall be received by the person to whom it is directed, constitute full compliance with such notice or mailing provisions. Whenever any written notice required or permitted by this Act has actually been received by the person entitled to receive the same, the method by which said notice was delivered shall be immaterial. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 5.

Effective 90 days after May 29, 1961, date of adjournment. Applicability of 1961 amendment, see note under art. 5452.

#### Art. 5457. Repealed. Acts 1961, 57th Leg., p. 863, ch. 382, § 11. Eff.

90 days after May 29, 1961, date of adjournment

See, now, art. 5455.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Art. 5461. Repealed. Acts 1961, 57th Leg., p. 863, ch. 382, § 11. Eff. 90 days after May 29, 1961, date of adjournment

See, now, art. 5453.

Art. 5462. Repealed. Acts 1961, 57th Leg., p. 863, ch. 382, § 11. Eff. 90 days after May 29, 1961, date of adjournment

See, now, art. 5453.

Art. 5463. [5635] [3308] Owner authorized to retain funds, contractor to defend suits

1. When notices of claims sent under the provisions of paragraph 2 of Article 5453 of this Act are received by the owner, he shall be authorized to retain in his hands the amount or amounts of money necessary to pay said claims from payments or part-payments to the original contractor for labor, or material or both, or for specially fabricated materials which has been performed or furnished by a claimant and to which such notices are applicable, at times and under circumstances, as follows:

a. Under notices of claims sent under subparagraph 2-a of Article 5453, immediately upon receipt of a copy of the claimant's affidavit claiming a lien prepared by claimant pursuant to said notices as required by paragraph 1, of Article 5453.

b. Under notices of claims sent under subparagraph 2-b of Article 5453, immediately upon receipt of such notices.

c. Under notices of claims sent under subparagraph 2-c of Article 5453, immediately upon receipt of the additional notices under subparagraph 2-b of said Article which are required to be sent upon delivery, or if and when the normal delivery time on the job has passed. Such funds shall be retained, unless payment is made under Article 5454, or the claim otherwise settled or determined, until the time for securing a lien under this Act has passed; or if a lien affidavit has been filed, until the lien claim has been satisfied and released.

2. When an affidavit claiming a lien is filed by any one other than the original contractor under the provisions of this Act, the original contractor shall defend the action brought thereupon at his own expense. In case of judgment against the owner or his property upon the lien, he shall be entitled to deduct from the amount due the contractor the amount of said judgment and costs; and, if he shall have settled with the contractor in full, he shall be entitled to recover from the contractor any amount so paid for which the contractor was originally liable. The owner shall in no case be required to pay, nor his property be liable for, any money, other than that required to be retained by him under the provisions of Article 5469 hereof, that he may have paid to the contractor before he is authorized under this Article to retain the money. If the notices prescribed in Article 5453 have been received by the owner and claimant's lien has been secured in accordance with Article 5453 and the claim or any part thereof is reduced to final judgment, the owner shall be required to pay, and his property shall be liable for, any money that he may have paid to the contractor after he is authorized to retain such money by virtue of this Article, as well as any money he is required to retain by the provisions of Article 5469 hereof. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 6.

Effective 90 days after May 29, 1961, date of adjournment.

Applicability of 1961 amendment, see note under art. 5452.

Art. 5465. Repealed. Acts 1961, 57th Leg., p. 863, ch. 382, § 11. Eff. 90 days after May 29, 1961, date of adjournment

See, now, art. 5454.

Art. 5467. [5636] [3309] Accrual of indebtedness

1. For the purpose of this Act, indebtedness, except for retainages, shall be deemed to have accrued as follows:

a. For an original contractor immediately upon any material breach or termination of the original contract by the owner, or on the tenth (10th) day of the month next following the month in which the original contract has been completed, finally settled, or abandoned.

b. For an artisan, laborer or mechanic who has labored at an hourly, daily or weekly rate of pay for an original contractor or subcontractor, at the end of the calendar week during which the labor was performed.

c. For a subcontractor, or any one other than those specified in paragraphs 1-a, 1-b and 1-d, of this Article, who has furnished labor, material, or both, to an original contractor or to a subcontractor, the indebtedness shall be deemed to have accrued on the tenth (10th) day of the month next following the last month in which the labor was performed or the material furnished.

d. In the case of specially fabricated material, the indebtedness shall be deemed to have accrued on the tenth (10th) day of the month next following the last month in which delivery of such materials was made; or the tenth (10th) day of the month next following the last month in which delivery of the last of such material would normally have been required at the job site; or immediately upon any material breach or termination of the original contract by the owner or contractor, or of the subcontractor under which the specially fabricated material was to be furnished.

2. For the purposes of this Act, claims for lien for retainages, as defined in paragraph 2-g of Article 5452 hereof, shall be deemed to have accrued on the tenth (10th) day of the month next following the month in which all work called for by the contract between the owner and the original contractor has been completed, finally settled, or abandoned.

3. Accrual of indebtedness shall be referable, as to any given claim, to the contract concerning which the particular claim is made and under the terms of which labor was performed or labor or material or both were furnished, or undelivered specially fabricated material is to be furnished. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 7.

Effective 90 days after May 29, 1961, date of adjournment. Applicability of 1961 amendment, see note under art. 5452.

Art. 5468. [5637] [3310] Equality of lien

Except as provided in Article 5469, the liens as perfected under this Act shall be upon an equal footing without reference to date of filing the account or affidavit claiming a lien. In case of foreclosure, if the proceeds of the sale of any property described in any account or lien are insufficient to discharge all the liens against the same, such proceeds shall be paid pro rata on the respective liens perfected under this Act and upon which suit is brought. Nothing in this Act shall in any manner affect the contract between the owner and original con-

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tractor as to the amount, manner or time of payment of said contract price. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 8.

Effective 90 days after May 29, 1961 date of adjournment. Applicability of 1961 amendment, see note under art. 5452.

#### Art. 5469. [5638] Lien claimants fund with reference to mechanics

Whenever work is done whereby a lien or liens may be claimed under Article 5452 hereof, it shall be the duty of the owner, his agent, trustee, or receiver to retain in his hands during the progress of such work and for thirty (30) days after the work is completed, to secure the payment of artisans and mechanics who perform labor or service, and to secure the payment of any other claimants furnishing material, or material and labor, or specially fabricated material for any contractor, subcontractor, agent, or receiver in the performance of such work ten per cent (10%) of the contract price to the owner, his agent, trustee, or receiver of such work, or ten per cent (10%) of the value of same, measured by the proportion that the work done bears to the work to be done, using the contract price or, if none, the reasonable value of the completed work as a basis of computing value. All persons who shall send notices in the time and manner required by this Act and shall file affidavits claiming a lien not later than thirty (30) days after the work is completed shall have a lien upon the fund so retained by the owner, his agent, trustee, or receiver; with preference to artisans and mechanics, who shall share ratably therein to the extent of their claims; with any remaining balance to be shared ratably among all other participating claimants. If the owner, his agent, trustee, or receiver refuses or fails to comply with the provisions of this Article, then all claimants complying with the provisions of this Act shall share ratably among themselves, with preference to artisans and mechanics as above specified, liens at least to the extent of the aforesaid fund of ten per cent (10%) which should have been retained, as against the house, building, structure, fixture, or improvement and all of its properties, and on the lot or lots of land necessarily connected therewith, to secure payment of such liens. As amended Acts 1961, 57th Leg., p. 863, ch. 382, § 9.

Effective 90 days after May 29, 1961, date of adjournment. Applicability of 1961 amendment, see note under art. 5452.

#### Art. 5472d. Bond to pay liens or claims

1. Whenever a written contract exists between the owner and an original contractor, and if such contractor shall have furnished a bond in favor of the owner in a penal sum not less than the total of the original contract amount, executed by the original contractor as principal and a corporate surety authorized to do business in the State of Texas, conditioned for the prompt payment of all labor, subcontracts, materials, and specially fabricated materials, as defined in Article 5452 hereof, and normal and usual extras not to exceed fifteen per cent (15%) of the contract price, and approved by the owner and filed in the office of the county clerk as herein provided, such payment bond shall inure solely to all claimants either giving and filing the applicable notices and claims under Article 5453, or making claims in the manner provided in paragraph 4 of this Article. A claim or claim rights under the bond may be assigned.

2. Such bond shall have the written approval of the owner endorsed thereon, and shall be filed together with the written contract between the owner and the original contractor, or a true copy thereof, with the county clerk of the county wherein the owner's property or any

part thereof is situated on which the construction or repair is being performed, or is to be performed; provided, however, it shall not be necessary to file and record the plans, specifications and general conditions of such contract whether or not such plans, specifications and general conditions are referred to in said contract.

3. The county clerk shall record such bond and place the contract on file in his office. He shall index and cross-index both in the names of the original contractor and the owner in a bound book to be designated "Bond to Pay Liens or Claims." The county clerk shall furnish a copy of said bond and contract to any person requesting same upon payment of a reasonable fee therefor, and a copy of such bond and contract duly certified to by said county clerk shall constitute prima facie evidence of the contents, execution, delivery and filing of the originals in all courts of this state or in the United States.

4. A claim to be enforceable against the bond may be perfected either in the manner prescribed for fixing and securing a lien by Article 5453 hereof, or in the following manner:

a. By giving to the original contractor all applicable notices of claims required by Article 5453; and, in addition thereto, by giving to the corporate surety, in lieu of to the owner, all notices therein required to be given to the owner; provided, however, the following notices need not be given:

(1) Notices to the surety under subparagraph 2-c of Article 5453 of acceptance of an order for specially fabricated materials.

(2) Notices to the surety under subparagraph 2-a of Article 5453, unless the claimant has a direct contractual relationship with the original contractor and the retainage agreed upon is in excess of ten per cent (10%) of the contract between the claimant and the original contractor.

It shall not be necessary, under this Article, that a claim be filed with the county clerk or that an affidavit accompany any claim or notice.

b. The time and manner of giving notices for claims under subparagraph 4-a of this Article shall be conditions of a valid claim thereunder; however, as to content of the notices, all that is required is a fair notice of the amount and nature of the claim asserted.

5. If any notices are received by the owner or a lien is fixed and secured as provided in Article 5453 hereof, the owner shall mail to the surety on the aforesaid bond a copy of all notices received by him; provided, however, failure of the owner to send such surety copies of such notices shall not relieve the surety of any liability under the bond if claimant has complied with the provisions of this Act, nor shall such failure impose any liability on the owner.

6. Every claimant whose claim remains unpaid sixty (60) days after compliance with the provisions of paragraph 4 of this Article may file suit in the county where the bond and contract were filed and recorded against the principal and surety on such bond, jointly or severally, for the amount of his claim and for court costs. Claimant may also recover reasonable attorneys fees if a recovery is made under the bond. No suit may be instituted on such bond after the expiration of fourteen (14) months from the date of his compliance with paragraph 4 of this Article.

7. In all cases where bonds have been filed in accordance with this Article, no suits shall be filed against the owner nor against his

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property, and any purchaser, lender or other person acquiring any interest in said property shall be entitled to rely upon the record of such bond and contract on file as constituting payment of all claims and liens for labor, or subcontracts, or materials or specially fabricated materials, as if he were the owner who approved, accepted and endorsed the bond; and the owner shall be relieved of all obligations under Articles 5454, 5463 and 5469 hereof. If the valid claims against a bond are in excess of the penal sum of the bond, each claimant shall be entitled to share pro rata in such penal sum.

8. Any bond which is either furnished and filed in attempted compliance with this Article or which by its express terms evidences its intent to comply with this Article shall in either event be construed to effectuate such intention and all rights and remedies on such bond shall be enforceable in the same manner and under the same conditions and limitations as the bond provided for in this Article. Added Acts 1961, 57th Leg., p. 863, ch. 382, § 10.

Effective 90 days after May 29, 1961, date of adjournment.

Applicability of 1961 amendment, see note under art. 5452.

#### CHAPTER SIX—CHATTEL MORTGAGES

Art. 5498. [5661] [3334] Record of chattels on realty

*Repeal of fee provisions, see art. 3930a, note.*

#### CHAPTER SEVEN—OTHER LIENS

Art. 5506a: Hospital or clinic's lien for services on cause of action of persons injured

*Repeal of fee provisions, see art. 3930a, note.*

Art. 5506c. Lien upon merchandise in favor of factor advancing money

*Repeal of fee provisions, see art. 3930a, note.*

TITLE 92—MENTAL HEALTH

I. MENTAL HEALTH CODE

CHAPTER I—GENERAL PROVISIONS

Art. 5547—4. Definitions

As used in this Code, unless the context otherwise requires:

(a) "Board" means the Board for Texas State Hospitals and Special Schools.

(b) "Person" includes firm, partnership, joint stock company, joint venture, association and corporation.

(c) "Political subdivision" includes a county, city, town, village or hospital district in this State but does not include the Board or any other department, board or agency of the State having state-wide authority and responsibility.

(d) "Physician" means a person licensed to practice medicine in the State of Texas or a person employed by a State mental hospital or by an agency of the United States, having a license to practice medicine in any state of the United States.

(e) "Head of hospital" means the individual in charge of a hospital.

(f) "General hospital" means a hospital operated primarily for the diagnosis, care and treatment of the physically ill.

(g) "Mental hospital" means a hospital operated for the primary purpose of providing in-patient care and treatment for the mentally ill. A hospital operated by an agency of the United States and equipped to provide in-patient care and treatment for the mentally ill shall be considered a mental hospital.

(h) "State mental hospital" means a mental hospital operated by the Board.

(i) "Private mental hospital" means a mental hospital operated by any person or political subdivision.

(j) "Patient" means any person admitted or committed to any mental hospital or any person under observation, care or treatment in a mental hospital.

(k) "Mentally ill person" means a person whose mental health is substantially impaired. For purposes of this Code the term "mentally ill person" includes a person who is suffering from the mental conditions referred to in Article 1, Section 15a of the Constitution of the State of Texas.

(l) "Mentally incompetent person" means a mentally ill person whose mental illness renders him incapable of caring for himself and managing his property and financial affairs.

(m) "Next of kin" means spouse or nearest known relative who is legally of age.

(n) "Resident of this State" means a person who has lived continuously in this State for a period of one (1) year or more and who has not acquired a residence in another state by living continuously therein for at least one (1) year subsequent to his residence in this State. Time

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spent in a public institution or on furlough therefrom is not included in determining residence in this or another state.

(o) "Department" means the Texas State Department of Health.

(p) "Warrant" means an order of a magistrate, ordering the apprehension and taking into custody of a person. As amended Acts 1961, 57th Leg., p. 1029, ch. 454.

Emergency. Effective June 17, 1961.

Sections 2-4 of the amendatory Act of 1961, amended articles 5547—27, 5547—28 and 5547—30.

#### Art. 5547—27. Authority of Health or Peace Officer

Any health or peace officer, who has reason to believe and does believe upon the representation of a credible person, in writing, or upon the basis of the conduct of a person or the circumstances under which he is found that the person is mentally ill and because of his mental illness is likely to cause injury to himself or others if not immediately restrained, may upon obtaining a warrant from any magistrate, take such person into custody, and immediately transport him to the nearest hospital and make application for his admission, pursuant to the warrant of the magistrate. Such person admitted upon such warrant may be detained in custody for a period not to exceed twenty-four (24) hours, unless a further written order is obtained from the County Court or Probate Court of such county, ordering further detention. Provided, however, that should the person be taken into custody on a Saturday or Sunday, or a legal holiday, then the twenty-four-hour period allowed for obtaining the court order permitting further detention shall begin at 9:00 o'clock a. m. on the first succeeding business day. As amended Acts 1961, 57th Leg., p. 1029, ch. 454, § 2.

Emergency. Effective June 17, 1961.

#### Art. 5547—28. Emergency Admission

The head of a mental hospital or a general hospital shall not admit nor detain any person for emergency observation and treatment unless:

(a) A warrant has been obtained from a magistrate ordering the apprehension and taking into custody of such person to be admitted, or an order of protective custody has been issued pursuant to Section 66 of this Code;

(b) A written application is made by a health or peace officer who has such person in his custody stating the circumstances under which the person was taken into custody and the officer's belief and the reasons therefor that the person is mentally ill and that because of his mental illness is likely to cause injury to himself or others if not immediately restrained; and

(c) A written and certified opinion is made by the medical officer on duty at the hospital, that after a preliminary examination, the person has symptoms of mental illness and is likely to cause injury to himself or others if not immediately restrained. As amended Acts 1961, 57th Leg., p. 1029, ch. 454, § 3.

Emergency. Effective June 17, 1961.

#### Art. 5547—30. Examination and Certification

The head of the hospital shall have a physician examine every person within twenty-four (24) hours after his admission to a hospital for

emergency observation and treatment and prepare a Certificate of Medical Examination for Mental Illness. A copy of the Certificate shall be sent forthwith to the person's guardian or responsible relative. As amended Acts 1961, 57th Leg., p. 1029, ch. 454, § 4.

Emergency. Effective June 17, 1961.

**CHAPTER V—PRIVATE MENTAL HOSPITALS**

**Art. 5547—92. Application and License Fees**

(a) An application fee and a license fee shall accompany the application for a license. If the Department denies the license, only the license fee shall be returned. The application fee is Twenty-five Dollars (\$25). The annual license fee payable on August 31, of each year is Fifty Dollars (\$50).

(b) All application fees and license fees received by the State Health Department under this Chapter shall be deposited in the State Treasury and there set apart, subject to appropriations by the Legislature, for the uses and purposes prescribed by this Act, including salaries, maintenance, travel expense, repairs, printing and postage. As amended Acts 1961, 57th Leg., p. 872, ch. 383, § 1.

Effective 90 days after May 29, 1961, date of adjournment.



TITLE 93—MARKETS AND WAREHOUSES

CHAPTER SIX—PUBLIC WEIGHER

Art. 5695. Duty of Commissioner

The Commissioner of Agriculture shall issue a certificate of authority to all persons engaged in the business of weighing for the public; and shall charge such public weigher or deputy weigher a fee of Five Dollars (\$5) annually for said certificate. The Commissioner of Agriculture shall deposit the fee into the State Treasury to the credit of the Special Department of Agriculture fund. Revenues derived from such fees shall be used for administration and enforcement purposes. The fee shall be collected at the time the certificate of authority is issued and such fee shall be collected annually thereafter from all persons engaged in the business of public weigher. It shall be the duty of the Commissioner of Agriculture, his deputies or agents to carefully and accurately test all scales, weights, beams and measures used by such public weighers every twelve months. As amended Acts 1961, 57th Leg., p. 190, ch. 100, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Art. 5697. Seal

Every public weigher in this state shall provide himself with a seal, consisting of a star of five points, and shall have inscribed on the outer margin thereof the words, "Public Weigher, Precinct No. \_\_\_\_\_, \_\_\_\_\_ County, Texas" or "Public Weigher, \_\_\_\_\_ City, Texas" which seal shall be impressed or printed upon each weight certificate issued by such public weigher, or deputy public weigher, on all weight sheets made out by them, but if the seal is printed, the weigher shall authenticate the same by signature. As amended Acts 1961, 57th Leg., p. 185, ch. 98, § 1.

Emergency. Effective April 28, 1961.

CHAPTER SEVEN—WEIGHTS AND MEASURES

Art. 5728. Fees; failure or refusal to pay; repairs; testing services; penalty

Section 1. The Commissioner of Agriculture shall collect fees for testing all weights, scales, beams and any kind of instruments or mechanical devices for weighing or measuring whenever he is required to make such tests under the provisions of this Chapter. The fee for testing gasoline, kerosene and diesel fuel pumps not to exceed fifty cents (50¢) for each pump tested; the test certificate or seal shall be protected from weather and attached inside the glass cover, where applicable, of each gasoline, kerosene and diesel fuel pump; fee for testing scales up to nine hundred and ninety-nine (999) pounds not to exceed One Dollar (\$1) for each scale tested; fee for testing scales one thousand (1,000) pounds to one thousand four hundred and ninety-nine (1,499) pounds not to exceed Two Dollars and Fifty Cents (\$2.50) for each scale tested; fee for testing scales one thousand five hundred (1,500) pounds to four thousand nine hundred and ninety-nine (4,999) pounds not to exceed Five

Dollars (\$5) for each scale tested; fee for testing scales four thousand nine hundred and ninety-nine (4,999) pounds and over not to exceed Ten Dollars (\$10) for each scale tested. The fee for testing butane and propane measuring devices not to exceed Five Dollars (\$5) for each measuring device tested. Such fees shall be collected by the Commissioner of Agriculture, his deputies and agents not to exceed once annually, except where additional tests are requested by the owner of the measuring or weighing device in which event there shall be paid to the Commissioner, his deputies and agents a fee equal to the annual fee for each additional test. The proceeds of such fees shall be paid into the State Treasury by the Commissioner of Agriculture and placed by the State Treasurer in the Special Department of Agriculture Fund, and shall be used only for administration and enforcement purposes of this Act. Provided, however, that no city which maintains a Weights and Measures Department for checking all weights and checking devices shall be precluded by this Act from operating such a Weights and Measures Department.

Sec. 2. Upon failure or refusal of the person, firm, or corporation to pay the fee for the services rendered in testing the weight, measure, or weighing or measuring instrument, the same shall not be used by such person, firm or corporation until such fee is paid.

Sec. 3. Repairmen approved by the Texas Department of Agriculture are hereby granted authority to repair, remove rejection tags, and issue placing in service reports on all weighing or measuring devices found inaccurate and condemned by the Department.

A fee shall not be collected on weighing or measuring devices found inaccurate and condemned until the weighing or measuring device has been repaired, reinspected by the Department, and sealed as correct.

Sec. 4. Testing services are to be rendered, insofar as may be feasible to accomplish the purposes set out herein, during periods when a minimum disruption of seasonal work activities is achieved.

Sec. 5. Upon failure or refusal of any person or upon the failure or refusal of an officer, director of a corporation or a member of a partnership or association to pay for the testing services rendered, or upon failure to comply with the provisions of this Act, they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). As amended Acts 1961, 57th Leg., p. 77, ch. 45, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 97—NAME

## CHAPTER ONE—ASSUMED NAME

Art.  
5924(a). Duration of certificate; renewal;  
termination [New].

## Art. 5924. Business under assumed name

Repeal of this article to the extent of  
conflict with art. 5924(a), see art. 5924(a)  
note.

## Art. 5924(a). Duration of certificate; renewal; termination

The certificate required by the provisions of Article 5924, Revised Civil Statutes of Texas, 1925, to be filed in the office of the county clerk by each and every person conducting business in the State of Texas under an assumed name shall be effective for a period of not to exceed ten years from the date said certificate is filed in the office of a county clerk. At the end of said ten years said certificate shall become null and void and of no effect, unless prior to said expiration a new certificate shall be filed in the office of the county clerk renewing said certificate for an additional period of not to exceed ten years.

Sec. 2. All of said certificates on file in the offices of county clerks which have heretofore been filed in accordance with Article 5924, shall terminate and become null and void and of no effect on and after December 31, 1962, provided, however, that said certificates now on file in the records in the county clerk's office may be extended for an additional period of not to exceed ten years by the filing of a new certificate on or before December 31, 1962; and provided further, that each of the businesses now being conducted under an assumed name in any county in which said business has had a certificate filed and recorded in the office of the county clerk in accordance with said Article 5924, shall be notified in writing by the county clerk of each county of the provisions of this law, terminating their present certificate as of December 31, 1962, unless a new certificate is filed; and such written notice shall be effective by being deposited in a United States Post Office addressed to the name of the business at the address given in the certificate. Added Acts 1961, 57th Leg., p. 984, ch. 428, § 1.

Effective 90 days after May 29, 1961, date  
of adjournment.

Section 2 of the Act of 1961 provided:  
"All laws or parts of laws in conflict with  
the provisions of this Act are hereby re-

pealed, to the extent of conflict only, in-  
cluding but not limited to the provisions of  
Article 5924, Revised Civil Statutes of Tex-  
as, 1925."

Arts. 5925, 5926

*Repeal of fee provisions, see art. 3930a, note.*

**TITLE 98—NEGOTIABLE INSTRUMENTS ACT****Art. 5932. Form and interpretation**

Sec. 9. The instrument is payable to bearer:

1. When it is expressed to be so payable; or
2. When it is payable to a person named therein or bearer; or
3. When it is payable to the order of a fictitious or nonexisting person or to a living person not intended to have any interest in it and such fact was known to the drawer or was known to his employee or other agent who supplies or causes to be inserted the name of such payee; or
4. When the name of the payee does not purport to be the name of any person; or
5. When the only or last indorsement is an indorsement in blank. As amended Acts 1961, 57th Leg., p. 211, ch. 109, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 102—OIL AND GAS

## GENERAL PROVISIONS

## Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

## Complementary Legislation:

N.Y.—L.1941, c. 501. Rep.L.1961, ch. 140.

## NATURAL GAS

## Art. 6060. Utility tax

Expenditures, see art. 6066.

## Art. 6066. Expenditures

The salary and expenses of the expert and his assistant and the salaries, wages, fees, and expenses of every other person employed or appointed by the Commission under the provisions of this subdivision, and all other expenses, costs, and charges, including witness fees and mileage incurred by/or under authority of the Commission or a Commissioner in administering and enforcing the provisions of this subdivision or in exercising any power or authority hereunder, shall be paid out of the Gas Utilities Division Fund provided for by Article 6060, as amended by House Bill No. 547, Acts at the Regular Session of the 42nd Legislature, by the State Treasurer on warrants of the Comptroller on orders or vouchers approved by the Commission or Chairman thereof. The entire amount derived from the tax imposed by Article 6060, as amended, shall be used for the purpose of enforcing the provisions of the preceding Article 6050, et seq., and for the purpose of paying for the administration of the conservation laws of this state relating to the production of gas, which includes condensates and distillates, such amounts as are required for this purpose shall be periodically transferred to the special Oil and Gas Enforcement Fund, but not in excess of the amount actually used in the administration of gas conservation regulation. Any surplus remaining in the Gas Utilities Fund (or any surplus remaining in the Oil and Gas Fund in part as a result of such transfer from the Gas Utilities Fund) shall be paid to the General Revenue Fund on September 1 of each year. As amended Acts 1959, 56th Leg., p. 633, ch. 287, § 1; Acts 1961, 57th Leg., p. 567, ch. 265, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Art. 6066d. Liquefied Petroleum Gas Code

## Legislative Grant of Authority to the Railroad Commission of Texas

Sec. 3. A. General. The Railroad Commission of Texas is hereby authorized, empowered, and directed, and it shall be its duty to promulgate and adopt, in accordance with this Act, adequate rules, regulations, and/or standards pertaining to any and all aspects or phases of the LPG industry (except as provided in Subsection D. of this Section) which will protect or tend to protect the health, welfare, and safety of the general public.

B. Containers, Tanks, Appliances, Systems and Equipment. The Railroad Commission of Texas is hereby authorized to adopt by reference the published Codes of the National Board of Fire Underwriters, the National Fire Protection Association, the American Society for Mechanical Engineers, and/or any other nationally recognized society, either in whole or in part, as the standards to be complied with in the design, construction, fabrication, assembly, installation, use and maintenance of containers, tanks, appliances, systems and equipment for the transportation, storage, delivery, utilization and/or consumption of LPG. Containers used in accordance with and subject to the regulations of the Interstate Commerce Commission and containers which are owned or used by the Government of the United States of America are excepted from the provisions of this Section.

C. Trucks, Trailers, or Other Motor Vehicles. The Railroad Commission of Texas shall, pursuant to the aforesaid authority and mandate, prescribe rules, regulations and/or standards with regard to trucks, trailers, or other motor vehicles on which containers, tanks or vessels are mounted or situated with facilities for dispensing LPG requiring all rigid pipes and valves thereon to be recessed or otherwise protected by heavy guard rails to afford maximum protection against damage thereto in the event of an accident, and such other further rules, regulations and/or standards pertaining to trucks, trailers or other motor vehicles used or to be used in the transportation, delivery or distribution of LPG as it might deem proper or advisable.

D. Exception. None of the provisions of this Act, shall be applicable to the production, refining, or manufacturing of LPG or to the storage, sale, or transportation by pipeline or railroad tank car of LPG by any pipeline company, producer, refiner, or manufacturer, or to equipment used by any pipeline company, producer, refiner or manufacturer in any such producing, refining or manufacturing process or in such storage, sale or transportation by pipeline or railroad tank car, or to any deliveries of LPG to another person at the place of production, refining, or manufacturing. As amended Acts 1961, 57th Leg., p. 587, ch. 279, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### License

Sec. 5. No person, firm, corporation or association shall engage in this state in the manufacturing, and/or assembling, and/or repairing, and/or selling, and/or installing of containers; nor shall any person, firm, corporation or association engage in the laying or connecting of pipes or piping, including all types of fittings, either in connecting with or to liquefied petroleum gas systems, or with or to house service lines or house pipes, nor in any manner lay or connect pipes or piping, including all types of fittings, to serve a system or appliances, to be used with liquefied petroleum gas as a fuel; nor shall such persons, firms, corporations or associations engage in the service, installation and/or repair of appliances using or to be used in connection with systems using liquefied petroleum gas as a fuel, nor shall such persons, firms, corporations or associations engage in the sale, transportation, dispensing or storage of liquefied petroleum gases within this state, except where stored by the ultimate consumer for consumption only, without having first obtained from the Railroad Commission of Texas under the provisions of this Act, a license to do so, except where the LPG so handled is in quantities of less than one (1) gallon United States water capacity and is an integral part of a device for its utilization or where such person is not en-

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gaged in business as a dealer in LPG specifically set out in Section 6 hereof. As amended Acts 1961, 57th Leg., p. 579, ch. 273, § 1.

Emergency. Effective May 29, 1961.

#### Categories and Fees of Dealers

Sec. 6. A prospective dealer in LPG may make application to the LPG Division as provided in Section 9 of this Act, for a license to engage in any or all of the following categories of dealers, and the following license fees are hereby fixed and assessed for each such category:

(1) Manufacturers or Fabricators. The manufacture, fabrication, assembly and/or sale of LPG containers, tanks, and/or equipment. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(2) Limited Installers or Repairmen. The installation, service and/or repair of cooking and space heating appliances, excluding water heaters, floor furnaces and central heating units, and excluding the installation of LPG systems of equipment other than an appliance connector approved by the LPG division. The license fee for this category shall be Five Dollars (\$5) per annum.

(3) Wholesalers or Jobbers. Any person who is not a producer or refiner who sells LPG to transporters, industrial consumers, processors, distributors and/or retail dealers. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(4) Carriers. The transportation only of LPG by carriers for hire or contract. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(5) General installers and repairmen. The sale, service, installation, and/or repair of containers, tanks, systems, piping, and equipment which utilize LPG, and the service, installation, and/or repair of appliances which utilize LPG. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(6) Retail and Wholesale Dealers. The transportation, storage, sale, distribution, and/or delivery of LPG at retail or wholesale, including the sale, service, installation and/or repair of LPG containers, tanks, piping, and/or equipment, and further including the service, installation and/or repair of LPG appliances. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(7) Carburetors. The sale, installation, service and/or repair of LPG motor fuel carburetion systems and equipment. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(8) Bottle Exchanges. The operation of an ICC bottle, filling and/or container exchange including the buying and selling, but not the delivery pickup or other transportation, of ICC bottles or containers. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(9) Service Station. The operation of a LPG motor fuel service station only. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(10) Municipal Corporations. The operation of a LPG system through mains, meters or pipes by any incorporated city, village or town. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(11) Bottle Dealers. The transportation, delivery, and pickup of ICC bottles and/or containers. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(12) Bottle Installers. The installation and/or connection of ICC bottles and/or containers. The license fee for this category shall be Twenty-five Dollars (\$25) per annum. As amended Acts 1961, 57th Leg., p. 579, ch. 273, § 2.

Emergency. Effective May 29, 1961.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

### TITLE 103—PARKS

#### 1. STATE PARKS BOARD

Art.

6070g. Leases for park purposes; transfer to State Highway Department of areas for roadside parks [New].

#### 4H. PALO DURO CANYON STATE PARK

6077j—1. Palo Duro Canyon State Park; Improvements [New].

#### 4Q. GENERAL IGNACIO ZARAGOZA STATE PARK [NEW].

Art.

6077s. General Ignacio Zaragoza State Park.

#### 5. COUNTY PARKS

6079d—1. Validation of county park board elections, proceedings and bonds [New].

6079f—1. Cities; sale and conveyance of land to Joint Board of Park Commissioners [New].

### 1. STATE PARKS BOARD

Art. 6070g. Leases for park purposes; transfer to State Highway Department of areas for roadside parks

Section 1. The State Parks Board may lease for park purposes any land and improvements it holds to any city, county, special district or other political subdivision for use for park purposes by that political subdivision. Under such lease agreements the area subject to the lease shall not be referred to as a State park, and no State funds may be used to operate or maintain any park leased under the provisions of this Section 1.

Sec. 2. Such agreements may be made on such terms as the State Parks Board and the governing body of any city, county, special district or other governmental subdivision may mutually agree upon and for such duration as may be mutually agreed upon.

Sec. 3. Any area, under the control of the State Parks Board, which is more suitable for use as a roadside park than any other park use may be transferred to the State Highway Department for roadside park purposes if it meets with the specifications of the State Highway Department. Acts 1961, 57th Leg., p. 1061, ch. 473.

Effective 90 days after May 29, 1961, date of adjournment.

#### 4H. PALO DURO CANYON STATE PARK

Art. 6077j. Palo Duro Canyon State Park—renewing outstanding indebtedness—entrance fees—leases—lands included.

Repeal of conflicting provisions, see art. 6077j—1, § 11.

Art. 6077j—1. Palo Duro Canyon State Park; Improvements

Authority of state parks board; improvements; permits

Section 1. The Texas State Parks Board is hereby authorized and empowered to make such improvements in Palo Duro Canyon State Park as said Board shall deem desirable. Such improvements may include, but shall not be limited to, the construction of a dam or dams for the purpose of impounding water to form a lake or lakes for recreational

and other conservation purposes within the Park, including all appurtenances thereto which said Board may deem advisable. Prior to constructing any dam or lakes the Parks Board shall obtain necessary permit or permits from the State Board of Water Engineers in accordance with the General Law.

**Bonds; interest rate; time for payment**

Sec. 2. Said Board is authorized and empowered to issue its bonds from time to time and in such amounts as it shall consider necessary or appropriate for the construction of the improvements herein authorized. All such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date and may be made redeemable prior to maturity, at the option of the Board, at such times and prices and under terms and conditions as may be prescribed in the authorizing proceedings. The bonds may be sold, either at public or private sale, at a price and under terms determined by the Board to be the most advantageous reasonably obtainable, provided that the interest cost of the money received therefor does not exceed six per cent (6%) per annum, computed with relation to the absolute maturity of the bonds in accordance with standard bond interest tables currently in use by insurance companies and investment houses, excluding however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

**Pledge of rents, revenues and income; deed of trust lien**

Sec. 3. The Board is authorized and empowered to irrevocably pledge the rents, revenues and income from the improvements authorized to be constructed herein and to pledge the rents, revenues and income from any other revenue producing facilities and other properties of Palo Duro Canyon State Park, including the fees collected for admission to said Park, to the payment of the interest on and the principal of the bonds authorized to be issued hereunder, and to enter into such agreements regarding the imposition of sufficient charges and other revenues and the collection, pledge and disposition of same as it may deem appropriate. In making such pledge of the rents, revenues and income, the right under the conditions therein specified to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued may be expressly reserved. In the event the Parks Board is unable to sell the revenue bonds after reasonable effort to do so has been made, said bonds (including refunding bonds) may be additionally secured by a deed of trust lien upon the lands and properties comprising the Palo Duro Canyon State Park, or any part thereof, after the Board has obtained the written approval therefor by the Governor of Texas, provided, however, that the Governor shall not give such written approval until he has obtained the advice and consent of the Legislative Budget Board.

**Form, conditions and details of bonds**

Sec. 4. Subject to the restrictions contained in this Act, the Board is given complete discretion in fixing the form, conditions and details of the bonds authorized to be issued hereunder, and such bonds may be refunded or otherwise refinanced whenever the Board deems such action to be appropriate or necessary.

**Refunding or refinancing bonds; additional parity bonds**

Sec. 5. Any bonds at any time issued by the Board under any Texas Statute, including without limitation, Chapter 64, Acts of 1947, 50th Leg-

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islature of Texas, Regular Session (Vernon's Texas Civil Statutes, Article 6077j), and payable from any part of the revenues of any revenue-producing facility, operation, or property of Palo Duro Canyon State Park, may be refunded or otherwise refinanced by the Board pursuant to the provisions of this Act, and in such case all of the provisions of this Act shall be fully applicable to such refunding bonds the same as if the bonds being refunded had been issued originally pursuant to this Act. In refunding or otherwise refinancing any such bonds the Board may, in the same authorizing proceedings, also refund or refinance any bonds issued pursuant to this Act and combine all said refunding bonds and any other additional new bonds to be issued pursuant to this Act into one or more issues or series, and may provide for the subsequent issuance of additional parity bonds, under such terms and conditions as may be set forth in said authorizing proceedings.

**Interest and sinking fund; employment of personnel; fees**

Sec. 6. From the proceeds of the sale of any issue of bonds the Board may set aside for the payment of interest anticipated to accrue during the construction period and to provide for a deposit into the reserve for the interest and sinking fund to the extent prescribed in the authorizing proceedings. The Board shall have full power to employ such engineers, attorneys, and fiscal agents or financial advisers which in its discretion are necessary in carrying out the objectives of this Act, and proceeds from the sale of the bonds may also be used for the payment of attorney's fees, engineer's fees, and all expenses of the issuance and sale of the bonds, including the fees of fiscal agents or financial advisers.

**Legal and authorized investments; security for deposit of public funds**

Sec. 7. The bonds authorized to be issued hereunder 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, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for such deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

**Negotiable instruments; approval of bonds; registration**

Sec. 8. All bonds issued by the Board pursuant to the provisions of this Act shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law of this state. Prior to delivery thereof, all bonds authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the Board, he shall approve them, and thereupon, they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration, they shall be incontestable.

**Debt against state**

Sec. 9. Nothing herein shall be construed as creating a debt against the State of Texas or as binding the State of Texas in any way except

as to the mortgage of the lands and properties comprising the Palo Duro Canyon State Park and as to the pledge of the rents, revenues and income thereof, as herein provided.

**Partial invalidity**

Sec. 10. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

**Cumulative effect; conflicts with other laws; security of outstanding bonds**

Sec. 11. This Act shall not repeal any Statute now in effect but shall be cumulative of all other Statutes pertaining to the Texas State Parks Board and Palo Duro Canyon State Park, and shall not modify or abridge any rights or powers now held by said Board to control and pledge the rents, revenues and income and properties of Palo Duro Canyon State Park; provided, however, that to the extent that the provisions of this Act may be in conflict with the provisions of any other law, including Chapter 64, Acts of the Regular Session of the 50th Legislature (Vernon's Texas Civil Statutes, Article 6077j), the provisions of this Act shall take precedence and prevail; and provided further, that this Act shall not in any wise affect the security of any bonds heretofore issued and now outstanding payable from any of the revenues of Palo Duro Canyon State Park. Acts 1961, 57th Leg., p. 170, ch. 89.

Emergency. Effective April 23, 1961.

**4Q. GENERAL IGNACIO ZARAGOZA STATE PARK [NEW]**

**Art. 6077s. General Ignacio Zaragoza State Park**

Section 1. That the County of Goliad is authorized to convey to the State Parks Board of the State of Texas, and the State Parks Board is authorized to accept on behalf of the State of Texas title to approximately two (2) acres of land, more or less, and more particularly described as Lots 4, 5, 6, 11, 12, 13, 14, 15, and 16 in Block X, La Bahia Townsite, in Goliad County, and being the area surrounding and adjoining the site of the birthplace of General Ignacio Zaragoza, who led the armies of the Republic of Mexico in defeating the forces of Napoleon III on May 5, 1862; provided, however, that in such conveyance there shall be a provision to the effect that if this land is not utilized as provided for in this Act, it shall revert to the County of Goliad.

Sec. 2. The State Parks Board is authorized to care for and protect said area surrounding and adjoining the site of the birthplace of General Ignacio Zaragoza as a State park and historical site, and to construct, maintain and repair historical and recreational structures and facilities therein. Acts 1961, 57th Leg., p. 584, ch. 276.

Emergency. Effective May 29, 1961.

**5. COUNTY PARKS**

**Art. 6079d—1. Validation of county park bond elections, proceedings and bonds**

Section 1. That all county park bond elections heretofore held on the proposition of issuing bonds of the county for the purpose of purchasing and/or improving lands for park purposes, at which election more than a

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

majority of the duly qualified resident electors of the county who owned taxable property within said county and who had duly rendered the same for taxation, voting at such election, voted in favor of the issuance of such bonds, are hereby in all things validated; and all the proceedings relating to such elections are hereby in all things validated; and all such bonds authorized at said elections, whether such bonds have yet been issued or not, are hereby in all things validated. The provisions of Chapter Nine of House Bill No. 6, Chapter 492, Acts of the 52nd Legislature of Texas, Regular Session, 1951, shall have no application to the elections validated under the provisions of this Act.

Sec. 1A. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to any matters which have heretofore been declared invalid by a court of competent jurisdiction in this state.

Sec. 2. If any provision or part of this Act or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of this Act and the application of such provision or part to other persons or circumstances shall not be affected thereby, and to this end the provisions of this Act are declared to be severable. Acts 1961, 57th Leg., p. 52, ch. 34.

Emergency. Effective March 25, 1961.

#### Art. 6079f. Adjacent counties having population of 350,000 or more

##### Joint park board; creation; powers

Sec. 2. Any two (2) such counties, for the purpose of providing public parks or park for the two (2) such counties, may by order passed by the Commissioners Court of each of the two (2) such counties, create a Board to be designated "Joint Board of Park Commissioners," hereinafter sometimes in this Act referred to as the "Joint Board" or "Joint Park Board" and by resolution transfer to said Joint Board jurisdiction and control over any park or parks any part of which is within an area containing any part of the boundary separating the two (2) said counties and/or any park or parks entirely or wholly within either of the two (2) said counties. Any such Joint Board shall have the powers authorized in and shall perform the duties specified in this Act. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 1.

Emergency. Effective June 16, 1961.

##### Depositories; warrants or checks; employees and agents; manager; seal

Sec. 6. The depository or depositories for such funds shall be selected by the Joint Board. Warrants or checks for the withdrawal of money shall be signed by an officer of the Joint Board and one (1) other Joint Park Commissioner both of whom shall be duly designated by resolution entered in the minutes of the Joint Board, or, when duly designated by resolution of the Joint Board, by two (2) bonded employees of the Joint Board. The Joint Board may employ secretaries, stenographers, bookkeepers, accountants, technical experts, and such other agents and employees, permanent or temporary, as it may require and shall determine their qualifications, duties and compensation. In addition the Joint Board may also employ and compensate a manager for any park or parks and may give him full authority in the management and operation of the park or parks subject only to the direction and orders of the Joint Park Board. The Joint Board shall adopt a seal which shall be placed on all

leases, deeds, and other instruments which are required to be executed under seal. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 2.

Emergency. Effective June 16, 1961.

#### Suits; title to properties; levy of tax

Sec. 11. Such Joint Board shall constitute a body corporate and politic, and shall have the right to sue and be sued in its own name. Title to the park or parks and all properties and facilities relating thereto shall be vested in the Joint Board. The Joint Board shall not have the power to levy a tax for any purpose. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 3.

Emergency. Effective June 16, 1961.

#### Revenue bonds

Sec. 12. (a) For the purpose of providing funds to acquire, improve, equip and repair such park or parks, or for the acquisition by construction or otherwise of any facilities to be used or connected with or incident to any such park or parks, or for any one or more of such purposes, the Joint Board shall have the power from time to time and is hereby authorized by resolution (hereinafter sometimes called the 'Resolution'), to issue bonds, which shall be fully negotiable instruments under the Uniform Negotiable Instruments Law and all other laws of Texas. Included but without limiting, among the permanent improvements and facilities which may be acquired through the issuance of Bonds are the following: stadia, coliseums, auditoriums, athletic fields, pavilions and buildings and grounds for assembly, together with parking facilities and other improvements incident thereto. Such Revenue Bonds shall be issued in the name of the Joint Board, shall be signed by the Chairman of the Joint Board and attested by the Secretary, or the facsimile signature of either or both may be printed thereon, and the seal of the Joint Board shall be impressed, printed or lithographed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold by the Joint Board at a price and under terms determined by the Joint Board to be the most advantageous reasonably obtainable, provided that the average interest cost, taking into consideration the maturity date or dates of the Revenue Bonds calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, shall not exceed six per cent (6%) per annum. The Resolution authorizing the issuance of the bonds shall prescribe the details as to the Bonds. It may contain provisions for the calling of the Bonds for redemption prior to their respective maturity dates at such prices and at such times as may be prescribed in such Resolution, but except for such rights of redemption expressly reserved in the Resolution and in the Bonds they shall not be subject to redemption prior to their scheduled maturity date or dates. The bonds may be made payable at such times and at such places, within or without the State of Texas, as may be prescribed in the Resolution, and they may be made registrable as to principal, or as to both principal and interest.

(b) The Bonds may be issued in one or more series from time to time as required for carrying out the purposes of this Act.

(c) The bonds may be secured by a pledge of all or a part of the net revenues from such park or parks, or the facilities thereof and incident thereto, or by a pledge of the net revenues both from said park or parks and said facilities or any one or more thereof. The net revenues of any one or more contracts, operating contracts, leases or agreements there-

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tofore or thereafter made or to be made may be pledged as the sole, or as additional security, for the support of the bonds. The bonds may be additionally secured by a mortgage upon any or all of the real and personal property owned and to be owned by the Joint Board. In any such Resolution the Joint Board may reserve the right under conditions therein specified to issue additional bonds which will be on a parity with, or subordinate to the bonds then being issued.

(d) The term "Net Revenues" as used in this Section and in this Act shall mean the gross revenues from the park or the parks, and the facilities thereof, leases, agreements and contracts, and incidents thereto, or from any one or more thereof, whose revenues shall have been thus pledged, after deduction of the necessary expenses as defined in Section 14 hereof.

(e) From the proceeds of the bonds the Joint Board may set aside, as shall be prescribed in the Resolution, an amount for payment of interest estimated to accrue during the construction period and in addition thereto such reserve for the interest and sinking fund as may be deemed proper. From the proceeds of the bonds all expenses necessarily incurred in issuing and in selling the revenue bonds shall be paid. The remainder of such proceeds shall be used for the purposes specified in the Resolution.

(f) Said bonds shall never be construed to be a debt of either of the two (2) such counties, or of the two (2) such counties jointly or collectively, or the State of Texas, or of the individual members of the Joint Board, but shall be payable solely and only from the income and properties of the Joint Board. Each bond shall contain on its face substantially the following provisions:

The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

(g) So long as any of the bonds are outstanding no additional bonds of equal dignity shall be issued against the pledged revenues except to the extent and in the manner expressly permitted in the Resolution.

(h) Before any such bonds are delivered to the purchaser they shall be submitted to the Attorney General along with the record pertaining thereto for his examination and approval. It shall be the duty of the Attorney General to approve the bonds when issued in accordance with this Act. Bonds thus approved by the Attorney General and registered within the office of the Comptroller of Public Accounts shall be incontestable. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 4.

Emergency. Effective June 16, 1961.

#### Refunding bonds

Sec. 13. Bonds which likewise will be fully negotiable, may be issued by Resolution adopted by the Joint Board for the purpose of refunding bonds issued under this Act. The refunding bonds may be secured in the manner provided in this Act, for securing original bonds. Such refunding bonds may be sold and the proceeds used to retire the original bonds, or may be issued in exchange for the original bonds, as may be provided in the Resolution authorizing their issuance. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 5.

Emergency. Effective June 16, 1961.

## Provisions applicable to bonds

Sec. 15. The following provisions shall be applicable as to bonds issued under this Act:

(a) It shall be the duty of the Joint Board to fix such tolls and charges for the use of the facilities whose revenues are thus pledged as will yield revenues fully sufficient to operate and maintain such facilities and to permit full compliance by the Joint Board with the covenants contained in the Resolution for the making of payments in the Debt Service Fund, including payments into any reserve accounts or funds created in the Resolution in connection with the issuance of the bonds. In the event that any part of the security for the bonds consists of money to be received by the Joint Board as consideration for facilities belonging to the Joint Board but operated by another or others under some form of lease or operating contract, it shall be the duty of the Joint Board to fix and authorize rates, charges and tolls to be made by such person or persons for services to be rendered by such facilities, at least sufficient to assure the receipt by the Joint Board of money which the Joint Board is committed to pay from such source for Debt Service under the terms of the Resolution.

(b) The proceeds of the bonds shall be used and shall be disbursed under such restrictions as may be provided in the Resolution, and there shall be and there is hereby created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or of any trustee provided for in respect to such bonds, but neither the depository of such funds nor the trustee shall be obligated to see to the proper application of such fund except as expressly provided in the Resolution or in the indenture securing the bonds. Any surplus remaining from the bond proceeds after providing for the following: interest during construction and for such additional period as may be prescribed in the Resolution, and the creating of any reserve fund prescribed in the Resolution, and the accomplishment of the bond purpose, shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, or be retained for future expansion or improvements.

(c) The Resolution may provide that such bonds shall contain a recital that they are issued pursuant to and in strict conformity with this Act and such recital when so made shall be conclusive evidence of the validity of the bonds and the regularity of their issuance.

(d) Any Bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas, or by any municipal corporation, county, or other political subdivision or taxing district of the state.

(e) If so provided in the Resolution, an indenture securing the bonds may be executed by and between the Joint Board and a corporate trustee, and such Resolution may provide also for execution of the indenture by a corporate or individual co-trustee. In addition to the pledge of revenues, the indenture may grant a mortgage or deed of trust lien on all or any part<sup>1</sup> real and personal property of the Joint Board theretofore and thereafter acquired. Any such corporate trustee or corporate co-trustee shall be any trust company or bank within or without the State of Texas having trust powers.

(f) Either the Resolution or such indenture may contain such provisions for protecting or enforcing the rights or remedies of the bondholders as may be considered by the Joint Board reasonable and proper and not in violation of law, including covenants setting forth the duties



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of the Joint Board in reference to maintenance, operation or repair, and insurance (including within the discretion of the Joint Board insurance against loss of use and occupancy) of the facility whose revenues are pledged and the custody, safeguarding and application of all moneys received from the sale of the bonds, and from revenues to be received from the operation of the project.

(g) It shall be lawful for any bank or trust company in this state to act as depository for the proceeds of the bonds or revenues derived from the operation of facilities whose revenues may be pledged, or for the special funds created to assure payment of principal and interest on the bonds, including reserve funds and accounts, or for one or more of such classes of deposits, and to furnish such indemnity bonds or to pledge such securities as may be required by the Joint Board.

(h) The Joint Board may select such depository or depositories without the necessity of seeking competitive bids. Such deposits shall be secured in the manner required by law for the security of money belonging to counties. Provided, that the Joint Board in the Resolution or the indenture securing the bonds may bind the Joint Board to the use of direct obligations of the United States Government or obligations unconditionally guaranteed by the United States Government as security for such deposits. Such indenture or Resolution may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual rights of action of the bondholders. The Resolution may contain all other suitable provisions such as the Joint Board may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which any or all of the bonds shall become, or may be declared to be due before maturity, and as to the rights, liabilities, powers and duties arising from the breach by the Joint Board of any of its duties or obligations.

(i) That any holder or holders of the bonds issued hereunder, including a trustee or trustees for such holders, shall have the right in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the Joint Board or its employees, the agents and employees thereof, or any lessee of any of said facilities whose revenues are pledged, including but not limited to the right to require the Joint Board to impose and establish and enforce sufficient and effective tolls and charges to carry out the agreements contained in the Resolution and indenture, or in both the Resolution and indenture, and to perform all agreements and covenants therein contained and duties arising therefrom, and in the event of default, as defined in the Resolution authorizing the bonds or in the indenture securing the bonds to apply for and obtain the appointment of a receiver for any of the properties involved. If such receiver be appointed he shall enter and take possession of the facilities mortgaged and whose revenues shall have been pledged and until the Joint Board may be no longer in default, or until relieved by the court, retain possession of the properties involved and collect and receive all revenues and tolls arising therefrom, and make and renew contracts and leases with approval of the court, in the same manner as the Joint Board itself might do, and shall dispose of all such moneys and apply same in accordance with the obligations of the Joint Board under the Resolution or indenture, and as the court may direct.

(j) The Resolution or the indenture securing the bonds may contain provisions to the effect that so long as the revenues of such park

facilities are pledged to the payment of bonds no free service shall be rendered by any of such facilities of the park for which tolls, charges and rentals are to be effective under the Resolution.

(k) All such bonds shall be and are hereby declared to be legally authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds and other funds of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all municipal corporations, counties, political subdivisions, public agencies, and taxing districts within the State of Texas, and such bonds shall be lawful and sufficient security for such deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

(l) The provisions contained in the Resolution and in the indenture and the applicable provisions of this Act shall constitute an irrevocable contract between the Joint Board and the holders of such bonds. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 6.

<sup>1</sup> So in enrolled bill.

Emergency. Effective June 16, 1961.

**Leases or operating agreements made prior to, or concurrently with,  
authorization of bonds**

Sec. 16. At any time prior to the authorization of bonds secured by a pledge of the revenues from any designated facility or facilities of the park or parks, the Joint Board may, for such period of time as it may determine, make a contract or lease agreement with a company, corporation, or individual for the operation of such facility, or facilities, the consideration for such contract or lease agreement to be specified, or the method of determining such consideration to be prescribed in such contract or lease agreement. The revenues from any such contract or agreement may be pledged in the Resolution or indenture as security or additional security for the revenue bonds. Any such facility or facilities may likewise be leased under such contract or lease agreement concurrently with the authorization of the issuance of said bonds, and the revenues therefrom pledged as security or additional security for the bonds; and in the event that issuance of said bonds is authorized concurrently with the contract or lease agreement then the revenues from such contract or agreement shall constitute security for the bonds. Such contract or agreement must provide that the rentals, tolls and charges to be enforced by such lessee for the use or services provided by such facility or facilities shall be sufficient at least to yield in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of such facility or facilities, plus an amount which will assure income to the Joint Board to permit and assure payments into the several funds and accounts in the manner, at the times and in the amounts specified in the Resolution. Any such lease agreement or contract may provide that such rentals, tolls and charges may be sufficient to yield a reasonable profit to the other party to the lease agreement or contract, but to be realized only after payment in full of the obligation to the Joint Board; any such operating or lease contract may provide for payment of the annual consideration or rental in monthly installments approximately equal and that failure to pay any required sum when due may be declared to be a breach of contract or agreement, entitling the Joint Board under regulations prescribed therein to declare the contract or agreement forfeited and to take over the operation and maintenance of such facility or facilities, but such remedy shall be cumulative of all others therein provided or recognized. The

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Joint Board may, in the alternative, reserve the right under conditions specified in the Resolution or Trust Indenture to make such lease after issuance of the bonds. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 7.  
Emergency. Effective June 16, 1961.

**Annual financial statement; form; proposed budget; operation and maintenance expenses**

Sec. 17. Before July 1st of each year the Joint Board shall prepare and not later than July 1st, file with the County Clerk of each of the two (2) such counties, a complete statement showing the financial status of the Joint Board, its properties, funds and indebtedness. The statement shall be so prepared as to show separately all information concerning the bonds, the income from pledged facilities, and expenditures of such revenues, and all information concerning any moneys which might have been appropriated to the Joint Board by the Commissioners Court of each of the two (2) such counties for operational and maintenance expenses. Concurrently with the filing of such statement, the Joint Board shall file with the County Clerk of each of the two (2) such counties a proposed budget of its needs for the next succeeding calendar year. It shall be the duty of the Joint Board to so operate said park or parks that there will be available from the gross revenues received from the operation of park facilities whose revenues are pledged to the payment of bonds money sufficient to pay the operation and maintenance expenses of said facilities. As amended Acts 1961, 57th Leg., p. 960, ch. 419, § 8.

Emergency. Effective June 16, 1961.

**Art. 6079f—1. Cities; sale and conveyance of land to Joint Board of Park Commissioners**

Section 1. This Act shall be applicable to all cities contained in any county which has, in conjunction with an adjoining county, created a Joint Board of Park Commissioners under the provisions of Chapter 137, Acts of the Fifty-sixth Legislature.

Sec. 2. Any such city may sell and convey any land owned by it to such Joint Board of Park Commissioners or to such counties, provided the governing body of the city finds that such land will not be required for city purposes. The sale and conveyance may be authorized by ordinance passed by the governing body of the city, and no election shall be required. Acts 1961, 57th Leg., p. 810, ch. 369.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 6081g. Cities of 60,000 or more bordering on Gulf of Mexico granted use and occupancy for park purposes of tidelands and waters**

**Right of use and occupancy granted; rights of city**

Section 1. Any city in this State bordering upon the Gulf of Mexico, which has or hereafter may have a population of sixty thousand (60,000) or more inhabitants as shown by the next preceding Federal Census taken before any action by such city is taken hereunder, shall have, and is hereby granted for park purposes, the right of use and occupancy of the tidelands between the lines of the ordinary high tide and the ordinary low tide of the Gulf of Mexico and the adjacent waters of the Gulf of Mexico, and the bed thereof, for a distance into and over the waters and bed of the Gulf of Mexico, of not over two thousand (2,000) feet from the line of ordinary high tide, between extensions into the Gulf of Mexico

of property lines of property above and fronting upon the tidelands owned or acquired by the city for park purposes, or in or to which it has or may acquire easements, or other rights or privileges authorizing it to use and occupy the same for park purposes, and such city may declare abandoned for use as streets or highways and take, occupy and use for park purposes any lands, or parts thereof, theretofore dedicated as public streets or highways which because of submersion by the waters of the Gulf of Mexico or the building of a seawall, breakwater, or other structure, have become unfit for use as streets or highways, if so found and declared by the governing body of the city. Provided that the distance between the extensions mentioned above shall never exceed one thousand (1,000) feet. Provided, however, that nothing in this Act contained shall be deemed as authorizing the taking of any private property or interest therein without compensation as required by the Constitution of the State of Texas.

The right of use and occupancy granted herein is upon the express condition that the State of Texas shall retain all of the oil, gas and other mineral rights in and under any of the land which it owns affected hereby.

The governing body of any such city shall have full rights of management and control of such tidelands, waters and bed of the Gulf of Mexico for park purposes to the extent allowed by this Act, including right and power on the part of such governing body, within its discretion, to acquire, erect, build and construct, repair, enlarge, extend, improve and remodel, furnish and equip and conduct, operate and maintain upon, over and into such tidelands and waters and bed of the Gulf of Mexico, a pier extending from the shore, with structures thereon to provide facilities for recreation, amusement, comfort, assemblies, and lodging of the public; provided, however, that no such city shall maintain and operate more than one such pier and no such pier shall extend into the Gulf of Mexico a distance in excess of two thousand (2,000) feet from the line of ordinary high tide, nor shall any such pier be constructed or maintained in any part of any channel deepened or improved for commercial navigation or between the shore line and any such channel, or in any arm, inlet, bay or body of water other than the main body of the Gulf of Mexico.

Without limiting the authority of the governing body of any city erecting or acquiring any pier as above authorized to determine the suitability of structures and facilities to be provided thereon for the purposes above authorized, it is hereby declared and enacted that for such purposes there may be erected, provided, operated and maintained thereon structures or facilities for any one or more of the following (the singular including the plural): theatre, restaurant, accommodations for overnight and transient guests, convention hall, dance hall, aquarium, exhibition hall, stadium for aquatic or other sports, concession and amusement devices stands or platforms, platform from which fishing may be carried on, together with walkways and rest room and toilet facilities and resting places, and other facilities for the convenience and comfort of the public; it being here expressly declared that the listing of the aforesaid structures and facilities is not intended to and shall not exclude other structures and facilities and uses reasonably adapted and suitable for park purposes upon, or in connection with, any such pier. As amended Acts 1961, 57th Leg., p. 1166, ch. 525, § 1.

Emergency. Effective June 17, 1961.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Acquisition of privately owned lands for park purposes in connection with pier**

Sec. 2. (a) That any city of the class defined in Section 1 hereof acquiring or erecting, or to acquire or erect, any such pier, as is authorized in said Section 1, shall be, and is hereby, empowered to acquire by gift or purchase such privately owned land and rights in privately owned land within the limits of the city, for use for park purposes in connection with such pier as the governing body of the city may determine to be necessary.

(b) That any such city, through its governing body, is hereby authorized, and shall have the power, to enter into contracts upon such terms as it may deem to be to the best interest of the city in connection with said pier and its facilities, including, but without in any way limiting the generalization of the foregoing, lease contracts whereby said pier in whole or in part is leased to another party or parties (public agencies or otherwise), and operation contracts whereby said pier in whole or in part is to be operated by another party or parties (public agencies or otherwise). Any such lease contract or operation contract shall be authorized by ordinance or resolution adopted by the governing body of the city, and may cover any term of years not to exceed forty (40) years from the date thereof. All or any part of the proceeds to be derived by the city from any such contract may be pledged to the payment of revenue bonds issued by the city under Section 4 hereof. Among other things, any lease contract may provide that the lessee shall have the right to acquire or construct improvements or facilities, which (if so provided in said lease contract) will belong to the city at the termination of the period or periods covered by such lease contract. As amended Acts 1961, 57th Leg., p. 1166, ch. 525, § 1.

Emergency. Effective June 17, 1961.

**Mortgaging pier, equipment and income**

Sec. 4. That for the purpose of obtaining funds for any of the purposes provided in Section 1 of, or elsewhere in, this Act, any city of the class defined in said Section 1, through its governing body, is hereby authorized, and shall have the power, from time to time, to issue bonds, notes or warrants secured by a pledge of and payable from the net revenues derived from the operation of all or any designated part or parts of such pier, structures, or improvements. As additional security for such bonds, notes or warrants, said city is hereby authorized, and shall have the power, to mortgage and encumber all or any designated part or parts of such pier, structures, or improvements and the furnishings and equipment thereof, together with all lands and interests, easements and other rights in land acquired or to be acquired and used in connection therewith, including the right of use and occupancy of the tidelands and waters and bed of the Gulf of Mexico herein granted (and, if the city now or hereafter owns, or has title to or rights in, the tidelands or bed of the Gulf of Mexico or the waters thereof, including said tidelands, bed, and waters and the rights therein). As further additional security for such bonds, notes or warrants, said city may, by the terms of any such mortgage, grant to the purchaser under sale or foreclosure thereunder a franchise to operate the properties purchased for a period of not over thirty-five (35) years after the purchase thereof; and during such period, in the case of any pier, structures, or improvements located at the time of said sale or foreclosure, wholly or in part, over and into State-owned tidelands and waters and bed of the Gulf of Mexico, such purchaser, his, their, or its heirs, successors or assigns shall have a like

right of use and occupancy of said State-owned tidelands and waters and bed of the Gulf of Mexico in connection with such pier, structures, or improvements for like purposes as are herein granted to the city, and such right of use and occupancy upon the termination of such period or upon the cessation of the use of the properties for such purpose occurring prior to the termination of such period shall revert to the city.

The power to issue bonds, notes and warrants payable from net revenues and the power to mortgage and encumber in this Section granted may be exercised as to property acquired, built, erected, constructed, furnished or equipped for the purposes in this Act authorized, whether the entire cost thereof shall be defrayed wholly from the proceeds of revenue bonds, notes or warrants issued pursuant to this Section 4, or partly from such proceeds and partly with the proceeds from bonds or warrants issued under authority of Section 3 and Section 5 hereof, or either of them, or with funds obtained from any other lawful source.

All bonds issued under the authority of this Section shall be made payable to bearer or to the order of a named payee and shall be negotiable instruments and are hereby declared to have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State of Texas,<sup>1</sup> but shall be payable solely from the special fund herein provided, and, at the option of the city, additionally secured by the mortgage and franchise above authorized. Such bonds shall bear interest not exceeding six per cent (6%) per annum, have such dates and such maturities serially or otherwise not exceeding forty (40) years from their date or dates, be in such denominations and be payable as to principal and interest at such place or places (which may be at any bank, either within or without the State), in such medium of payment, contain such provisions for redemption prior to maturity and be in such form as the governing body of the city may determine. No such bond or the interest coupons appurtenant thereto bearing the signature or facsimile signature of any official of the city duly authorized to sign the same at the time such signature may be actually affixed thereto, shall be invalid by reason of such official ceasing to hold office prior to the delivery of such bond, or not having held office on the date of such bond.

Interest on such bonds may be payable in such manner as the governing body of the city may prescribe, and such bonds may in the discretion of the governing body of the city be made registerable as to principal and interest, or as to principal only, under such terms as the governing body may prescribe, or may be issued not subject to registration. Such bonds may be executed in the manner set forth in the proceedings authorizing the issuance of the same, and such proceedings may provide that the bonds and coupons, either or both, shall be executed by facsimile signatures and that the seal of the city on the bonds shall be the printed facsimile seal.

In the proceedings authorizing the issuance of such bonds, the governing body may prohibit the further issuance of bonds payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues in all respects on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said proceedings. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the city and another party or parties (public agencies or otherwise), including but without in any way limiting the generalization of the foregoing, lease contracts and operation contracts, a copy of such con-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

No obligation issued and secured under authority of this Section shall ever be a debt of the city issuing the same, but shall be solely a charge upon the income and properties encumbered and shall never be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. Every such obligation shall contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

The nature of the pledge of income and encumbrance of properties to secure any such obligations and the control, management and operation of such properties while any such obligation remains unpaid, shall be subject to and be governed by the provisions of Articles 1111 to 1118, both inclusive, Vernon's Texas Civil Statutes, as amended, in like manner as are parks and systems named in Article 1111, as amended; provided, that no election shall be necessary to authorize the issuance of bonds under this Section.

The governing body of the city is hereby authorized to provide by ordinance for the issuance of revenue refunding bonds of the city for the purpose of refunding any revenue bonds issued under the provisions of this Section and then outstanding, together with accrued interest thereon, interest on past due principal, interest on past due interest, and judgments of courts of competent jurisdiction pertaining to past due principal and interest. The issuance of such revenue refunding bonds, the maturities and all other details thereof, the rights of the holders thereof and the duties and powers of the city in respect to the same, shall be governed by the provisions of this Act insofar as the same may be applicable. Such revenue refunding bonds may bear interest at a rate or rates higher than that borne by the underlying bonds, but such rate or rates to be borne by the revenue refunding bonds shall not exceed six per cent (6%) per annum. As amended Acts 1961, 57th Leg., p. 1166, ch. 525, § 2.

<sup>1</sup> Article 5932 et seq.

Emergency. Effective June 17, 1961.

#### Bonds declared negotiable instruments; legal investments and security for deposit of public funds

Sec. 4a. All bonds issued under this Act (both tax bonds and revenue bonds) shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporation or subdivision 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured inter-

est coupons appurtenant thereto. Added Acts 1961, 57th Leg., p. 1166, ch. 525, § 3.

*Emergency. Effective June 17, 1961.*

Section 4 of the amendatory act provided:  
"Any and all bonds heretofore issued under the provisions of Chapter 7, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941 [this article], which bonds have been approved by the Attorney General of the State of Texas, and any and all proceedings and actions had or taken by such cities and the governing

bodies thereof in connection with such bonds, are hereby in all things validated. All conveyances or grants of properties and rights in properties, real or personal or both, to any such city in connection with or relating to any park improvement or pier acquired or constructed pursuant to the provisions of said Chapter 7, are hereby in all things validated."



## TITLE 105—PARTNERSHIPS AND JOINT STOCK COMPANIES

Chap.

Art.

3. Real estate Investment Trusts [New] ----- 6138A

## CHAPTER ONE—PARTNERSHIPS

## PARTNERSHIPS

Art.

6132b. Texas Uniform Partnership Act  
[New].

## Art. 6132a. Uniform Limited Partnership Act

Real estate investment trust act, see art. 6138A. Texas uniform partnership act, see art. 6132b.

## PARTNERSHIPS

## UNIFORM PARTNERSHIP ACT

*Table of States Wherein Act Has Been Adopted*

State	Where found	State	Where found
Alaska.....	A.C.L.A. 1949, §§ 28-1-1 to 28-1-65.	New Mexico.....	1953 Comp. §§ 66-1-1 to 66-1-43.
Arizona.....	A.R.S. §§ 29-201 to 29-244.	New York.....	McKinney's Partnership Law, §§ 1-74.
Arkansas.....	Ark.Stats. §§ 65-101 to 65-143.	North Carolina, G.S.	§§ 59-31 to 59-73.
California.....	West's Ann.Corp.Code, §§ 15001-15045.	North Dakota..	NDRC1943, 45-0501 to 45-0915.
Colorado.....	C.R.S. '53, 104-1-1 to 104-1-43.	Ohio.....	R.C. §§ 1775.01-1775.42.
Delaware.....	6 Del.C. §§ 1501-1543.	Oklahoma.....	54 Okl.St. Ann. §§ 201-244.
Guam.....	Guam Civil Code, §§ 2395-2472.	Oregon.....	ORS 68.010-68.650.
Idaho.....	I.C., §§ 52-301 to 52-343.	Pennsylvania..	59 P.S. §§ 1-105.
Illinois.....	S.H.A., ch. 106½, §§ 1-43.	Rhode Island..	Gen.Laws 1956, §§ 7-12-12 to 7-12-55.
Indiana.....	Burns' Ann.St. §§ 50-401 to 50-443.	South Carolina, Code	1952, §§ 52-1 to 52-79.
Kentucky.....	KRS 362.150-362.360.	South Dakota..	SDC 49.0101 to 49.0615.
Maryland.....	Code 1957, art. 73A, §§ 1-43.	Tennessee.....	Williams' Code, §§ 7841-7882.
Massachusetts..	M.G.L.A., c. 108A §§ 1-44.	Utah.....	U.C.A. 1953, 48-1-1 to 48-1-40.
Michigan.....	Comp.Laws 1948, §§ 449.1-449.43n.	Vermont.....	11 V.S.A. §§ 1121-1335.
Minnesota.....	M.S.A. §§ 323.01-323.43.	Virginia.....	Code 1950, §§ 50-1 to 50-43.
Missouri.....	V.A.M.S. §§ 358.010-358.430.	Washington....	RCW 25.04.010-25.04.430.
Montana.....	RCM1947 §§ 63-101 to 63-515.	West Virginia..	Code, 47-8A-1 to 47-8A-45.
Nebraska.....	R.R.S. 1943, §§ 67-301 to 67-343.	Wisconsin.....	W.S.A. 123.01-123.38.
Nevada.....	N.R.S. 87.010 to 87.430.	Wyoming.....	W.S. 1957, §§ 17-195 to 17-237.
New Jersey.....	N.J.S.A. 42:1-1 to 42:1-43.		

## Art. 6132b. Texas Uniform Partnership Act

## PART I—PRELIMINARY PROVISIONS

## (Contents

1. Name of Act.
2. Definition of Terms.
3. Interpretation of Knowledge and Notice.
4. Rules of Construction.
5. Rules for Cases Not Provided for in This Act.)

## Name of Act

Section 1. This Act shall be known and may be cited as the Texas Uniform Partnership Act.

**Definition of Terms**

Sec. 2. In this Act, "Court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.

"Person" includes individuals, partnerships, corporations, and other associations.

"Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any State Insolvent Act.

"Conveyance" includes every assignment, lease, mortgage, or encumbrance.

"Real property" includes land and any interest or estate in land.

**Interpretation of Knowledge and Notice**

Sec. 3. (1) A person has "knowledge" of a fact within the meaning of this Act not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

(2) A person has "notice" of a fact within the meaning of this Act when the person who claims the benefit of the notice:

(a) States the fact to such person, or

(b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

**Rules of Construction**

Sec. 4. (1) The rule that Statutes in derogation of the Common Law are to be strictly construed shall have no application to this Act.

(2) The law of estoppel shall apply under this Act.

(3) The law of agency shall apply under this Act.

(4) This Act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This Act shall not be construed so as to impair the obligations of any contract existing when the Act goes into effect, nor to affect any action or proceedings begun or right accrued before this Act takes effect.

**Rules for Cases Not Provided for in This Act**

Sec. 5. In any case not provided for in this Act the rules of law and equity, including the law merchant, shall govern.

**PART II—NATURE OF A PARTNERSHIP****(Contents**

6. Partnership Defined.

7. Rules for Determining the Existence of a Partnership.

8. Partnership Property.)

**Partnership Defined**

Sec. 6. (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) But any association formed under any other Statute of this state, or any Statute adopted by authority, other than the authority of this

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

state, is not a partnership under this Act, unless such association would have been a partnership in this state prior to the adoption of this Act; but this Act shall apply to limited partnerships except in so far as the Statutes relating to such partnerships are inconsistent herewith.

(3) An association is not a partnership under this Act if:

(a) The word "association" or "associates" is part of and always used in the name under which it transacts business, and

(b) Its assumed name certificates, filed in accordance with law, contain a statement substantially as follows: "This association intends not to be governed by the Texas Uniform Partnership Act," and

(c) The business it transacts is wholly or partly engaging in an activity in which corporations cannot lawfully engage.

This Subsection shall not be construed to change in any way the law applicable to associations which are not partnerships under this Act.

#### Rules for Determining the Existence of a Partnership

Sec. 7. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by Section 16 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a widow or representative of a deceased partner,

(d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of a good-will of a business or other property by installments or otherwise.

(5) Operation of a mineral property under a joint operating agreement does not of itself establish a partnership.

#### 1. In general

In suit for specific performance of contract for sale of land, evidence sustained finding that one of defendants, who participated in all of negotiations, purporting

to act as attorney for other defendant, was a partner in purchase of realty. *McHaney v. Hackleman* (Civ.App.1961) 347 S.W.2d 822, ref. n. r. e.

#### Partnership Property

Sec. 8. (1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

PART III—RELATIONS OF PARTNERS TO PERSONS  
DEALING WITH THE PARTNERSHIP

(Contents

9. Partner Agent of Partnership as to Partnership Business.
10. Conveyance of Real Property of the Partnership.
11. Partnership Bound by Admission of Partner.
12. Partnership Charged with Knowledge of or Notice to Partner.
13. Partnership Bound by Partner's Wrongful Act.
14. Partnership Bound by Partner's Breach of Trust.
15. Nature of Partner's Liability.
16. Partner by Estoppel.
17. Liability of Incoming Partner.)

**Partner Agent of Partnership as to Partnership Business**

Sec. 9. (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,
- (b) Dispose of the good-will of the business,
- (c) Do any other act which would make it impossible to carry on the ordinary business of a partnership,
- (d) Confess a judgment,
- (e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

**Conveyance of Real Property of the Partnership**

Sec. 10. (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of paragraph (1) of Section 9, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of Section 9.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of paragraph (1) of Section 9, unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of Section 9.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

(6) Nothing in this Section shall be deemed to modify the Statutes of limitations of actions for lands.

#### Partnership Bound by Admission of Partner

Sec. 11. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as defined by this Act is evidence against the partnership.

#### Partnership Charged with Knowledge of or Notice to Partner

Sec. 12. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

#### Partnership Bound by Partner's Wrongful Act

Sec. 13. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

##### 1. In general

Partnership funds are in nature of a trust account, and use thereof by one partner as security for, or in payment of his individual debts constitutes a constructive if not actual fraud upon trust fund, and person with whom he deals cannot

hold it against other partners, or those claiming under them, unless he can show that he is a bona fide holder for value and without notice. *Titus v. Gulf Liquid Fertilizer Co.* (Civ.App.1961) 345 S.W.2d 422, error granted.

#### Partnership Bound by Partner's Breach of Trust

Sec. 14. The partnership is bound to make good the loss:

(a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

#### Nature of Partner's Liability

Sec. 15. All partners are liable jointly and severally for all debts and obligations of the partnership including those under Sections 13 and 14.

#### Partner by Estoppel

Sec. 16. (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made:

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership;

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

(3) A representation that a person is an "associate" or a "non-partner member" of a partnership is not a representation that he is a partner in the partnership.

#### Liability of Incoming Partner

Sec. 17. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

## PART IV—RELATIONS OF PARTNERS TO ONE ANOTHER.

## (Contents

18. Rules Determining Rights and Duties of Partners and Employees.
19. Partnership Books.
20. Duty of Partners to Render Information.
21. Partner Accountable as a Fiduciary.
22. Right to an Account.
23. Continuation of Partnership Beyond Fixed Term.)

## Rules Determining Rights and Duties of Partners and Employees

## Sec. 18.

(1) The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property, and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(d) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(e) All partners have equal rights in the management and conduct of the partnership business.

(f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(g) No person can become a member of a partnership without the consent of all the partners.

(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

(2) By written agreement, the partners may establish various classes of partners (such as "senior partners," "junior partners," "managing partners" and others) and may provide for their varying rights and duties in relation to the partnership.

(3) By written agreement, the partners may establish various classes of non-partner employees (such as "associates," "non-partner members" and others) and may provide for their varying rights and duties in relation to the partnership.

## Partnership Books

Sec. 19. The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the part-

nership, and every partner shall at all times have access to and may inspect and copy any of them.

**Duty of Partners to Render Information**

Sec. 20. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

**Partner Accountable as a Fiduciary**

Sec. 21. (1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This Section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

**Right to an Account**

Sec. 22. Any partner shall have the right to a formal account as to partnership affairs:

- (a) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners,
- (b) If the right exists under the terms of any agreement,
- (c) As provided by Section 21,
- (d) Whenever other circumstances render it just and reasonable.

**Continuation of Partnership Beyond Fixed Term**

Sec. 23. (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

**PART V—PROPERTY RIGHTS IN PARTNERSHIP**

**(Contents**

- 24. Extent of Property Rights of a Partner.
- 25. Nature of a Partner's Right in Specific Partnership Property.
- 26. Nature of Partner's Interest in the Partnership.
- 27. Assignment of Partner's Interest.
- 28. Interest in Partnership Subject to Charging Order.
- 28-A. Extent of Community Property Rights of a Partner's Spouse.
- 28-B. Effect of Death or Divorce on Interest in the Partnership.)

**Extent of Property Rights of a Partner**

Sec. 24. The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

right to participate in the management. The community property rights of a partner's spouse are stated in Section 28-A.

#### Nature of a Partner's Right in Specific Partnership Property

Sec. 25. (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this Act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

#### Nature of Partner's Interest in the Partnership

Sec. 26. A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property for all purposes.

#### Assignment of Partner's Interest

Sec. 27. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs; it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled and, for any proper purpose, to require reasonable information or account of partnership transactions and to make reasonable inspection of the partnership books.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest.

#### Interest in Partnership Subject to Charging Order

Sec. 28. (1) On due application to a competent court by any judgment creditor of a partner (or of any other owner of an interest in the partnership), the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner (or such other owner) with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him

in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner (or such other owner) might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this Act shall be held to deprive a partner (or other owner) of his right, if any, under the exemption laws, as regards his interest in the partnership.

#### Extent of Community Property Rights of a Partner's Spouse

Sec. 28-A. (1) A partner's rights in specific partnership property are not community property.

(2) A partner's interest in the partnership may be community property.

(3) A partner's right to participate in the management is not community property.

#### Effect of Death or Divorce on Interest in the Partnership

Sec. 28-B. (1) (A) On the divorce of a partner, the partner's spouse shall, to the extent of such spouse's interest in the partnership, be regarded for purposes of this Act as an assignee and purchaser of such interest from such partner.

(B) On the death of a partner, such partner's surviving spouse (if any) and such partner's heirs, legatees or personal representative, shall to the extent of their respective interests in the partnership, be regarded for purposes of this Act as assignees and purchasers of such interests from such partner.

(C) On the death of a partner's spouse, such spouse's heirs, legatees or personal representative shall, to the extent of their respective interests in the partnership, be regarded for purposes of this Act as assignees and purchasers of such interests from such partner.

(2) A partnership is not dissolved by the death of a partner's spouse unless the agreement between the partners provides otherwise.

(3) Nothing in this Act shall impair any agreement for the purchase or sale of an interest in a partnership at the death of the owner thereof or at any other time.

## PART VI—DISSOLUTION AND WINDING UP

## (Contents)

29. Dissolution Defined.
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41. Liability of Persons Continuing the Business in Certain Cases.
42. Rights of Retiring or Estate of Deceased Partner When the Business is Continued.
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**Dissolution Defined**

Sec. 29. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

**Partnership not Terminated by Dissolution**

Sec. 30. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

**Causes of Dissolution**

Sec. 31. Dissolution is caused:

(1) Without violation of the agreement between the partners,

(a) By the termination of the definite term or particular undertaking specified in the agreement,

(b) By the express will of any partner when no definite term or particular undertaking is specified.

(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,

(d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this Section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner unless the agreement between the partners provides otherwise;

(5) By the bankruptcy of any partner or the partnership;

(6) By decree of court under Section 32.

#### Dissolution by Decree of Court

Sec. 32. (1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under Sections 27 and 28:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

#### General Effect of Dissolution on Authority of Partner

Sec. 33. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership:

(1) With respect to the partners,

(a) When the dissolution is not by the act, bankruptcy or death of a partner; or

(b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where Section 34 so requires.

(2) With respect to persons not partners, as declared in Section 35.

#### Right of Partner to Contribution from Co-partners after Dissolution

Sec. 34. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(b) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

#### Power of Partner to Bind Partnership to Third Persons after Dissolution

Sec. 35. (1) After dissolution a partner can bind the partnership except as provided in paragraph (3):

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(I) Was a creditor of the partnership at the time of dissolution or had extended credit to the partnership within two years prior to dissolution and, in either case, had no knowledge or notice of his want of authority; or

(II) Though he was not such a creditor or had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under Paragraph (1b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the person with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or

(b) Where the partner has become bankrupt; or

(c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who:

(I) Was a creditor of the partnership at the time of dissolution or had extended credit to the partnership within two years prior to dissolution and, in either case, had no knowledge or notice of his want of authority; or

(II) Though he was not such a creditor or had not so extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in Paragraph (1bII).

(4) Nothing in this Section shall affect the liability under Section 16 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

#### Effect of Dissolution on Partner's Existing Liability

Sec. 36. (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed

shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

#### Right to Wind Up

Sec. 37. Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however, that any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court.

#### Rights of Partners to Application of Partnership Property

Sec. 38. (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his co-partners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under Section 36(2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have,

(I) All the rights specified in paragraph (1) of this Section, and

(II) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2aII) of this Section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(I) If the business is not continued under the provisions of paragraph (2b) all the rights of a partner under paragraph (1), subject to clause (2aII), of this Section,

(II) If the business is continued under paragraph (2b) of this Section the right as against his co-partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be indemnified against all existing liabilities of the partnership; but in ascertaining the value of the part-

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ner's interest the value of the good-will of the business shall not be considered.

#### Rights Where Partnership is Dissolved for Fraud or Misrepresentation

Sec. 39. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled:

(a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(c) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

#### Rules for Distribution

Sec. 40. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are:

(I) The partnership property,

(II) The contributions of the partners necessary for the payment of all the liabilities specified in clause (b) of this paragraph.

(b) The liabilities of the partnership shall rank in order of payment, as follows:

(I) Those owing to creditors other than partners,

(II) Those owing to partners other than for capital and profits,

(III) Those owing to partners in respect of capital,

(IV) Those owing to partners in respect of profits.

(c) The assets shall be applied in the order of their declaration in clause (a) of this paragraph to the satisfaction of the liabilities.

(d) The partners shall contribute, as provided by Section 18(a) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause (d) of this paragraph.

(f) Any partner or his legal representative shall have the right to enforce the contributions specified in clause (d) of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.

(g) The individual property of a deceased partner shall be liable for the contributions specified in clause (d) of this paragraph.

(h) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(i) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

- (I) Those owing to separate creditors,
- (II) Those owing to partnership creditors,
- (III) Those owing to partners by way of contribution.

#### Liability of Persons Continuing the Business in Certain Cases

Sec. 41. (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners, and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in paragraphs (1) and (2) of this Section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of Section 38(2b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this Section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this Section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(9) Nothing in this Section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

#### Rights of Retiring or Estate of Deceased Partner When the Business is Continued

Sec. 42. When any partner retires or dies, and the business is continued under any of the conditions set forth in Section 41 (1, 2, 3, 5, 6) or Section 38 (2b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this Section as provided by Section 41 (8) of this Act.

#### Accrual of Actions

Sec. 43. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

### PART VII—MISCELLANEOUS PROVISIONS

#### (Contents)

- 44. Severability; Effect of Partial Invalidity.
- 45. Effective Date.
- 46. Repealer.

#### Severability; Effect of Partial Invalidity

Sec. 44. If a court shall adjudge to be invalid or unconstitutional any provision of this Act, such judgment or decree shall not affect other provisions or applications of this Act, but the effect thereof shall be confined to the provision so adjudged to be invalid or unconstitutional. To this end, the provisions of this Act are severable.

#### Effective Date

Sec. 45. This Act shall take effect and be in force from and after January 1, 1962.

#### Repealer

Sec. 46. All Acts or parts of Acts inconsistent with this Act are hereby repealed. However nothing herein shall be deemed to repeal:

(A) Acts 1955, 54th Legislature, page 471, Chapter 133 (codified as Article 6132a, Revised Civil Statutes of Texas, 1925, the Texas Uniform Limited Partnership Act).

(B) Acts 1858, page 110; P.D. 1514; General Laws Volume 4, page 982 (codified as Article 2033, Revised Civil Statutes of Texas, 1925, and pertaining to citation upon one member of a partnership).

(C) Acts 1858, page 110, P.D. 1514; General Laws Volume 4, page 982 (codified as Article 2223, Revised Civil Statutes of Texas, 1925, and pertaining to judgment against partnership or partners).

(D) Any other provision pertaining to citation or judgment against partners or partnerships. Acts 1961, 57th Leg., p. 289, ch. 158.

Effective Jan. 1, 1962.

Architects, registration of copartners, see art. 249a, § 12.

Certified public accountant, use of name, see art. 41a.

Executions, levy on partnership interest, see Vernon's Texas Rules of Civil Procedure, Rule 642.

Judgment against partners, see art. 2223.

Limitation of suit for settlement of accounts, see art. 5527.

Negotiable instruments, see arts. 5934, § 41; 5937, § 77; 5938, § 99.

Pleading, verification, see Vernon's Texas Rules of Civil Procedure, Rule 93.

Real estate investment trust act, see art. 6138a.

Receivers,

Application, see art. 2318.

Appointment, see art. 2293.

Service of citation, see art. 2033.

Service of process upon foreign partnerships, see art. 2031b.

Suits by or against partnerships, see Vernon's Texas Rules of Civil Procedure, Rule 28.

Taxes and taxation,

Affidavit to statement or report for gross receipts tax, see art. 7079.

Assignee or purchaser of occupation license, see art. 7056.

Occupation taxes, see V.A.T.S. Tax-Gen., art. 19.01.

Payment of taxes as condition to engaging in occupation, see art. 7052.

Transfer of unexpired occupation license, see art. 7055.

Unemployment compensation, employing unit as including partnership, see art. 5221b-17.

Uniform limited partnership act, see art. 6132a.

## CHAPTER TWO—UNINCORPORATED JOINT STOCK COMPANIES

### Article 6133. 6149 Suit in company name

Real estate investment trust act, see art. 6138A.

## CHAPTER THREE—REAL ESTATE INVESTMENT TRUSTS [NEW]

Art.

6138A. Texas Real Estate Investment Trust Act.

### Art. 6138A. Texas Real Estate Investment Trust Act

#### Short title

Section 1. This Act shall be known and may be cited as the "Texas Real Estate Investment Trust Act."

#### Real estate investment trust defined

Sec. 2. A real estate investment trust is an unincorporated trust formed by one or more trust managers under the provisions of Section 3 of this Act and managed in accordance with the provisions of Section 4 of this Act.

**Formation of real estate investment trust**

Sec. 3. (A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgments of deeds, which shall set forth:

(1) The name of the trust and a statement that an assumed name certificate setting forth such name has been filed in the manner prescribed by law.

(2) A statement that it is formed pursuant to the provisions of this Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

(3) As to any real property of any character, major capital improvements must be made within fifteen (15) years of purchase or the property must be sold. Such major capital improvements must equal or exceed the purchase price of such real property, if the same is unimproved property at the time of purchase or property outside the corporate limits of a city, town or village. Any citizen of the State of Texas may force compliance with this provision by filing suit in any district court of this state and shall receive from such real estate investment trust forced to sell under this provision the sum of five per cent (5%) of the sale price of such real property interest as compensation.

(4) The post office address of its initial principal office and place of business.

(5) The name and post office address of each trust manager, specifying the resident trust manager.

(6) The period of its duration, which may be for a term of years or perpetual.

(7) The aggregate number of shares of beneficial interests the trust shall have authority to issue, the par value to be received by the trust for the issuance of each of such shares and a statement that each share shall be equal in all respects to every other share.

(8) A statement that shares of beneficial interests will be issued only for money or property actually received.

(9) A statement that the trust manager(s) shall hold the money or property received for the issuance of shares for the benefit of the owners of such shares.

(10) A statement that the trust will not commence operations until the beneficial ownership is held by one hundred or more persons with no five (5) persons owning more than fifty per cent (50%) of the total number of outstanding shares of beneficial interest. The word person as used herein shall not include corporations.

(11) Any provision, not inconsistent with law, including any provision which under this Act is permitted to be set forth in the by-laws, which

the trust manager(s) elect to set forth in the declaration of trust for the regulation of the internal affairs of the trust.

(B) The declaration of trust shall be filed for record with the County Clerk of the county of the principal place of business of the trust.

**Operation of real estate investment trust**

Sec. 4. (A) The control, operation, disposition, investment, reinvestment and management of the trust estate and whether included in the foregoing or not, all powers necessary or appropriate to effect any or all of the purposes for which the trust is organized shall be vested in the trust manager(s) named in the declaration of trust or successor(s) selected in accordance therewith; provided that naming successor trust manager(s) shall be considered an amendment to the declaration of trust. At least a majority of the trust managers must be natural persons and residents of the State of Texas and the other trust manager(s), if any, need not be residents of this state or shareholders of the trust unless the declaration of trust or by-laws so require. The declaration of trust or by-laws may prescribe other qualifications for the trust manager(s).

(B) Any vacancy occurring in the trust manager(s) may be filled by a two-thirds vote of the outstanding shares of the trust.

(C) If the trust is managed by three (3) or more trust managers, a majority of the number of trust managers shall constitute a quorum for the transaction of business unless a greater number is required by the declaration of trust or the by-laws.

(D) The trust manager(s) may designate such of its members to constitute officers of the trust to the extent provided in the declaration of trust or in the by-laws of the trust, who shall have and may exercise all of the authorities of the trust manager(s) in the business and affairs of the trust except where action of the trust manager(s) is specified by this Act or other applicable laws, but the designation of such officers and the delegation thereto of authority shall not operate to relieve the trust manager(s), or any member thereof, of any responsibility imposed upon them or him by law. All officers and agents of the trust shall have such authority and perform such duties in the management of the trust as may be provided in the by-laws or as may be determined by the trust manager(s) not inconsistent with the by-laws. Any officer or agent elected or appointed by the trust manager(s) may be removed by the trust manager(s) whenever in their judgment the best interests of the trust will be served thereby, but such removal shall be without prejudice to the contract rights, if any, if the person is so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

(E) The trust manager(s) or officers shall have the power to exercise complete discretion with respect to the investment of the trust estate subject to the limitation that seventy-five per cent (75%) of the total trust assets shall be invested in real property (including fee ownership and co-ownership of land or improvements thereon and leaseholds of land or improvements thereon), interests in mortgages on real property, shares in other real estate investment trusts, cash and cash items (including receivables) and Government securities; provided, that the trust manager(s) or officers shall not have the power to invest in severed mineral, oil or gas royalty interests.

(F) The trust manager(s) and the officers of the trust shall receive such compensation as may be provided in the declaration of trust, the by-laws or as determined by majority vote of the holders of all the outstanding shares.

**Service of process on real estate investment trust**

Sec. 5. The resident trust manager(s) and any one of them if more than one and any officer of the trust shall be an agent of such trust upon whom any process, notice, or demand required or permitted by law to be served upon the trust may be served.

**General powers of real estate investment trust**

Sec. 6. (A) Subject to the provisions of paragraphs (B) and (C) of this Section, each real estate investment trust shall have power:

(1) To have perpetual succession by its trust name unless a limited period of duration is stated in its declaration of trust.

(2) To sue and be sued, complain and defend, in its trust name.

(3) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property or any interest therein, wherever situated, as the purposes of the trust shall require, but the trust shall not own more than one thousand (1,000) acres outside the corporate limits of a town or city at any one time.

(4) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(5) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, mortgage, lend, pledge, sell or otherwise dispose of, and otherwise use and deal in and with, securities, shares or other interests in, or obligations of, domestic or foreign corporations, associations, partnerships, other real estate investment trusts, or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, government district, or municipality, or of any instrumentality thereof.

(6) To make contracts, and incur liabilities, borrow money at such rates of interest as the trust may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income.

(7) To lend money for its trust purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(8) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this Act in any state, territory, district or possession of the United States, or in any foreign country.

(9) To elect or appoint officers and agents of the trust for such period of time as the trust may determine, and define their duties and fix their compensation.

(10) To make and alter by-laws, not inconsistent with its declaration of trust or with the laws of this state, for the administration and regulation of the affairs of the trust.

(11) To cease its trust activities and terminate its existence by voluntary dissolution.

(12) Whether included in the foregoing or not, to have and exercise, all powers necessary or appropriate to effect any or all of the purposes for which the trust is organized.

(B) Nothing in this Section grants any authority to officers or trust manager(s) of a real estate investment trust to perform any of the foregoing powers inconsistent with the limitations on any of the same which may be expressly set forth in this Act or in the declaration of trust or

in any other laws of this state. Authority of officers and trust manager(s) to act beyond the scope of the purpose or purposes of a real estate investment trust is not granted by any provision of this Section.

(C) Nothing contained in this Act shall be deemed to authorize any action in violation of the Anti-Trust Laws of this state as now existing or hereafter amended.

#### Consideration and payment for shares

Sec. 7. (A) Shares may be issued for such consideration expressed in dollars as shall be fixed from time to time by the trust manager(s).

(B) The consideration paid for the issuance of shares shall consist of money paid or property actually received. Shares may not be issued until the full amount of the consideration has been paid. When such consideration shall have been paid to the trust, the shares shall be deemed to have been issued, and the shareholder entitled to receive such issue, shall be a shareholder with respect to such shares, and the shares shall be considered fully paid and non-assessable.

(C) Neither promissory notes nor the promise of future services, nor past services shall constitute payment or part payment for shares of a real estate investment trust.

(D) In the absence of fraud in the transaction, the judgment of the trust manager(s) or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

#### Liability of shareholders

Sec. 8 (A) A holder of a certificate of shares shall not be personally or individually liable in any manner whatsoever for any debt, act, omission or obligation incurred by the trust or the trust manager(s) and shall be under no obligation to the trust or to its creditors with respect to such shares other than the obligation to pay to the trust the full amount of the consideration for which such shares were issued or to be issued.

(B) Any person becoming an assignee or transferee<sup>1</sup> of a certificate of shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the trust or its creditors for any unpaid portion of such consideration.

(C) An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver, shall not be liable personally as a holder of shares of a trust, but the estate and funds in his hands shall be liable to pay to the trust the full amount of the consideration for which such shares were issued or to be issued.

(D) No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

(E) No real estate investment trust may impose restrictions on the sale or other disposition of its shares and on the transfer thereof.

<sup>1</sup> So in enrolled bill.

#### By-laws

Sec. 9. The initial by-laws of the trust shall be adopted by shareholders in person or by proxy. The power to alter, amend, or repeal the by-laws or to adopt new by-laws shall be vested in the shareholders. The by-laws may contain any provisions for the regulation and management of the affairs of the trust not inconsistent with law or the declaration of trust.

**Meetings of shareholders**

Sec. 10. (A) Meetings of shareholders shall be held at such place, either within or without the state, as may be provided in the by-laws. In the absence of any such provision, all meetings shall be held at the principal office of the trust.

(B) An annual meeting of the shareholders shall be held at such time as may be provided in the by-laws. In the event the trust manager(s) fail to call the annual meeting at the designated time, any shareholder may make demand that such meeting be held within a reasonable time, such demand to be made in writing by registered mail directly to any officer or trust manager of the trust. If the annual meeting of the shareholders is not called within sixty (60) days following such demand, any shareholder may compel the holding of such annual meeting by legal action directed against said trust manager(s), and all of the extraordinary writs of the common law and of a court of equity shall be available to such shareholder to compel the holding of such annual meeting. Each and every shareholder is hereby declared to have a justiciable interest sufficient to enable him to institute and prosecute such legal proceedings.

(C) Special meetings of the shareholders may be called by the trust manager(s), any officer of the trust, the holders of not less than one-tenth ( $\frac{1}{10}$ ) of all the shares entitled to vote at the meetings, or such other persons as may be provided in the declaration of trust or the by-laws.

**Notice of shareholders meetings**

Sec. 11. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the trust manager(s) or any officer or person calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the shareholder at his address as it appears on the books of the trust, with postage thereon prepaid.

**Quorum of shareholders**

Sec. 12. Unless otherwise provided in the declaration of trust, the holders of a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of the holders of less than one-third ( $\frac{1}{3}$ ) of the shares entitled to vote and thus represented at such meeting. The vote of the holders of a majority of the shares entitled to vote and thus represented at a meeting at which a quorum is present, shall be the act of the shareholders meeting, unless the vote of a greater number is required by law, the declaration of trust or by-laws.

**Voting of shares**

Sec. 13. (A) Each outstanding share shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders.

(B) A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney in fact. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Each proxy shall be revocable unless expressly provided therein to be irrevocable, but in no event shall it remain irrevocable for a period of more than eleven (11) months.

(C) (1) At each election for trust manager(s) every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are trust manager(s) to be elected and for whose election he has a right to vote, or unless expressly prohibited by the declaration of trust, to cumulate his votes by giving one (1) candidate as many votes as the number of such trust manager(s) multiplied by his shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

(2) No amendment of the declaration of trust prohibiting the right of cumulative voting shall be effective unless at least sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the outstanding shares entitled to vote upon such amendment shall have been voted in favor of such amendment.

(3) Any shareholder who intends to cumulate his votes as herein authorized shall give written notice of such intention to the trust manager(s) on or before the day preceding the election at which such shareholder intends to cumulate his votes.

#### Dividends

Sec. 14. (A) The trust manager(s) may from time to time, declare and the trust may pay, dividends on its outstanding shares in cash, in property, or in its own shares, except when the trust is insolvent or when the payment thereof would render the trust insolvent, or when the declaration or payment thereof would be contrary to any restrictions contained in the declaration of trust.

(B) The trust manager(s) must, when requested by the holders of at least one-third ( $\frac{1}{3}$ ) of the outstanding shares of the trust, present written reports of the situation and amount of business of the trust and, subject to limitations on the authority of the trust manager(s) by provisions of law, or the declaration of trust or the by-laws, the trust manager(s) shall declare and provide for payment of such dividends of the profits from the business of the trust as such trust manager(s) shall deem expedient.

#### Liability of trust manager(s)

Sec. 15. (A) In addition to any other liabilities imposed by law upon trust manager(s) of a real estate investment trust:

(1) The trust manager(s) of a trust who vote for or assent to any distribution of assets of a trust to its shareholders during the liquidation of the trust without the payment and discharge of, or making adequate provisions for, all known debts, obligations and liabilities of the trust shall be jointly and severally liable to the trust for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the trust are not thereafter paid and discharged.

(2) The trust manager(s) of a trust who vote for or assent to the making of a loan to an officer or trust manager(s) of the trust or the making of any loans secured by the shares of the trust, shall be jointly and severally liable to the trust for the amount of such loan until the repayment thereof.

(3) If the trust shall commence operations before the beneficial ownership is held by one hundred (100) or more persons with no five (5) persons owning more than fifty per cent (50%) of the total number of outstanding shares of beneficial interest, the trust manager(s) who assent thereto shall be jointly and severally liable to the trust for all debts and obligations incurred by the trust prior to the time the beneficial owner-



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ship is so held, but such liability shall be terminated when the trust has actually issued the required number of shares.

(B) The trust manager(s) shall not be liable under Subsection 1 of paragraph (A) of this Section if, in the exercise of ordinary care, in good faith, in determining the amount available for any such dividend or distribution, he considered the assets to be of their book value.

(C) A trust manager(s) shall not be liable for any claims or damages that may result from his acts in the discharge of any duty imposed or power conferred upon him by the trust, if, in the exercise of ordinary care, he acted in good faith and in reliance upon the written opinion of an attorney for the trust.

(D) No trust manager<sup>1</sup> shall be liable for any act, omission, loss, damage, or expense arising from the performance of his duty under a real estate investment trust, save only for his own wilful misfeasance or malfeasance or negligence.

<sup>1</sup> So in enrolled bill.

#### Share as personal property

Sec. 16. A share of beneficial ownership in a real estate investment trust shall be considered personal property.

#### Joinder of shareholders not required

Sec. 17. The joinder of shareholders in any sale, mortgage, lease, or other disposition of all or any part of assets of a real estate investment trust shall not be required.

#### Books and records

Sec. 18. (A) Each trust shall keep complete and correct books of account and shall keep minutes of the proceedings of its shareholders and trust manager(s) and shall keep at its principal office or place of business a record of its shareholders giving the names and addresses of all shareholders and the number of shares held by each.

(B) Any person who shall have been a shareholder of record for at least six (6) months immediately preceding his demand, or who shall be the holder of record of at least five per cent (5%) of all the outstanding shares of a trust, upon written demand stating the purpose thereof shall have the right to examine, in person or by agent or attorney, at any reasonable time or times, for any proper purpose, its books and records of account, minutes and record of shareholders, and shall be entitled to make extracts therefrom.

(C) Nothing herein contained shall impair the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which such shareholder shall have been a shareholder of record, and irrespective of the number of shares held by him, to compel production, for examination by such shareholder, of the books and records of account, minutes, and record of shareholders of a trust.

#### Transfer of shares

Sec. 19. The shares of ownership shall be transferable by an appropriate instrument in writing and by the surrender of the shares of ownership to the trust manager(s) or to the persons designated by them, but no transfer shall be of any effect as against the trust or the trust manager(s) until it has been recorded upon the books of the trust kept for that purpose.

#### Termination and liquidation

Sec. 20. A real estate investment trust may be dissolved by the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the owners of shares of the trust. Upon receiving such vote, the trust manager(s) shall liquidate the trust and distribute the remaining property and assets of the trust among its shareholders in accordance with their respective rights and interests after applying such property as far as it will go to the just and equitable payment of the liabilities and obligations of the trust. Upon the filing by the trust manager(s) of a withdrawal of assumed name certificate as provided by law, the trust shall cease to carry on its business, except in so far as may be necessary for the winding up thereof.

#### Greater voting requirements

Sec. 21. Whenever, with respect to any action taken by the shareholders of a trust, the declaration of trust requires the vote or concurrence of the holders of a greater portion of the shares than is required by this Act, with respect to such action, the provisions of the declaration of trust shall control.

#### Waiver of notice

Sec. 22. Whenever any notice is required to be given to any shareholder of a trust under the provisions of this Act or under the provisions of the declaration of trust or by-laws of the trust, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

#### Right to amend declaration of trust

Sec. 23. A real estate investment trust may amend its declaration of trust, from time to time, in any and as many respects as may be desired, so long as its declaration of trust as amended contains only such provisions as may be lawfully contained in original declaration of trust at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification, or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation. The declaration of trust may be amended upon receipt of the affirmative vote of the holders of at least two-thirds ( $\frac{2}{3}$ ) of the outstanding shares of the trust. Any and all amendments to the declaration of trust shall be made of record in the same manner as the original declaration of trust.

#### Cases not provided for

Sec. 24. In any case not provided for in this Act, the rules of law and equity, including the law of merchant shall govern. For purposes of the Texas Trust Act and this Act, a real estate investment trust created hereunder shall be considered a "business trust." Any unincorporated trust which does not meet the requirements of this Act shall be treated as an unincorporated association pursuant to Chapter 2 of this Title 105. Acts 1961, 57th Leg., p. 873, ch. 384.

Effective 90 days after May 29, 1961, date of adjournment.

Real estate dealers, see art. 6573a et seq.

Texas trust act, see art. 7425b-6 et seq.

Uniform limited partnership act, see art. 6132a.

Uniform partnership act, see art. 6132b.

## TITLE 109—PENSIONS

## 1. STATE AND COUNTY PENSIONS

Art.

6228a—4. Reinstatement of service credits  
[New].

## 1. STATE AND COUNTY PENSIONS

## Art. 6228a. Retirement system for State employees

## Creditable Service

## Sec. 4.

E. Each person who was employed, as defined in this Act, and who has withdrawn his contributions and canceled his accumulated creditable service for retirement purposes may, if he returns to state employment and continue as such for a period of five (5) consecutive years, be entitled to deposit in the Retirement System in a lump sum payment the amount withdrawn with a penalty interest of two and one-half (2½%) percent per annum from the date of withdrawal to the date of redeposit, plus any membership fees due, and have his creditable service reinstated for retirement purposes; however, it is provided that the amount withdrawn by the person and deposited with the System shall be placed in his individual account in the Employees Saving Fund and the two and one-half (2½%) percent per annum penalty interest shall be placed in the State Accumulation Fund. The amounts to be deposited shall be determined in each case by the Employees Retirement System and in no event shall any such person be granted retirement upon such former service credits until the amount so determined shall have been paid in full.

Each person who was employed, as defined in this Act, and who heretofore executed a waiver of membership in the Retirement System may, if he has been employed from the date he executed the waiver of membership, or in the event such person left employment and returns to state employment and continues as such for a period of five (5) consecutive years, shall have the privilege of electing to receive credit for all previous creditable state service provided such person shall deposit with the Employees Retirement System in a lump sum all back deposits, assessments and dues which he would have paid or deposited had he been a member of the System during each of the years and months employed commencing with the state fiscal year September 1, 1947, together with penalty interest on the date each amount was payable at the rate of two and one-half (2½%) percent per annum, and provided further that the back deposits required shall be placed in his individual account in the Employees Saving Fund, and the penalty interest of two and one-half (2½%) percent per annum shall be placed in the State Accumulation Fund. The amounts to be deposited shall be determined in each case by the Employees Retirement System and in no event shall any such person be granted retirement upon such former service credits until the amounts so determined shall have been paid in full, and provided further that the total of all such back deposits shall be matched by an equal sum by the State of Texas in the manner and from the Funds as now provided in the State Employees Retirement Act. As amended Acts 1961, 57th Leg., p. 589, ch. 281, § 1.

Emergency. Effective June 13, 1961.

## Benefits

## Sec. 5.

## D. Return of Accumulated Contributions.

1. Should a member with less than fifteen (15) years of creditable service cease to be employed, except by death or retirement, under the provisions of this Act he shall be paid in full the amount of accumulated contributions standing to the credit of his individual account in the Employees Saving Fund. As amended Acts 1961, 57th, Leg., p. 589, ch. 281, § 1.

Emergency. Effective June 13, 1961.

## Art. 6228a—4. Reinstatement of service credits

Section 1. (a) Any teacher or auxiliary employee who has heretofore executed a waiver of membership in the Retirement System shall have the privilege of electing to receive full service credit, provided such teacher or auxiliary employee after becoming a member of the Retirement System shall deposit all back deposits, assessments and dues which he would have paid or deposited had he been a member of the System during each of the years he actually taught or was employed as an auxiliary employee in the public schools following the date on which he first became eligible for membership in the System, together with interest from the date each amount was payable at the rate of five percent (5%) per annum. One-half of the interest shall be credited to the State Accumulation Account.

(b) Any person who terminates or has terminated membership in the Retirement System by withdrawal of deposits or by absence from service shall have the privilege of reinstating such terminated membership by rendering service for five (5) subsequent consecutive creditable years and depositing the amount withdrawn plus membership fees for the years during which membership was terminated plus a reinstatement fee of two and one-half per cent (2-½%) per annum from the date of withdrawal to date of redeposit. The reinstatement fee shall be credited to the State Contribution Fund. Repayment may be made at any time.

Sec. 2. Any member of the Retirement System who has been employed as a teacher in any public school system maintained in whole or in part by any other state or territory of the United States or by the United States for children of United States citizens may purchase equivalent current service credits under this Retirement System for such teaching.

(a) In the event application for such purchase is made within three (3) years and payment within five (5) years from date of membership in this System, current service credit will be granted immediately upon payment.

(b) In the event application for such purchase is not made within three (3) years or payment not made within five (5) years from date of membership in this System, current service credit will be granted three (3) years after the date of payment. Acts 1961, 57th Leg., p. 35, ch. 22, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Withdrawal of deposits from teachers' retirement system, see art. 2922—1a.

Retirement system for state employees, see art. 6228a.

## Title of Act:

State employees executing waivers in retirement system, see art. 6228a—1.

Teachers' retirement system, see art. 2922—1.

Teachers' retirement system and state employees retirement system, see art. 6228a—2.

An Act providing for reinstatement of service credits for waiver teachers and for teachers who have withdrawn deposits; providing for purchase of out-of-state teaching service; providing for teacher retirement credit for teaching service; providing a severability clause; and declaring an emergency. Acts 1961, 57th Leg., p. 35, ch. 22.

## 2. CITY PENSIONS

## Art. 6243b. Firemen and policemen pension fund in cities of over 100,000

## Operation of fund notwithstanding census change

Sec. 18. Any city which has established a firemen and policemen pension fund in accordance with the provisions of this Act shall continue to operate such fund notwithstanding the fact any future Federal Census may result in the city being above or below the population bracket as specified in this Act. Added Acts 1959, 56th Leg., p. 26, ch. 16, § 1 as amended Acts 1961, 57th Leg., p. 983, ch. 427, § 1.

Emergency. Effective June 16, 1961.

## Art. 6243e. Firemen's Relief Pension Fund

## Termination of active service; allowances and benefits

Sec. 25A. After a fireman who is a member of a 'full paid' fire department at the termination of his active service shall terminate his active service, the amounts of all allowances and benefits which such fireman or his beneficiaries may thereafter become entitled to receive from a Firemen's Relief and Retirement Fund shall be computed on the basis of the schedule of allowances and benefits in effect for such Firemen's Relief and Retirement Fund at the time of the termination of such fireman's active service. Added Acts 1961, 57th Leg., 1st C.S., p. 191, ch. 53, § 1.

Effective 90 days after Aug. 8, 1961,  
date of adjournment.

## Art. 6243g. Pension system in cities over 500,000

## Amount of pension; compulsory retirement

Sec. 12. (a) Any member of such Pension System who has been in the service of the city for the period of twenty (20) years and has attained fifty-five (55) years of age shall be entitled to a retirement pension of One Hundred Twenty Dollars (\$120) per month for the rest of his life, upon his retirement from the service of said city. Upon the completion of said twenty (20) years of service and attaining fifty-five (55) years of age, such Pension Board shall issue to said member a certificate showing that he is entitled to said Retirement Pension and thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of said member's life. Upon the date of any member's retirement, if he shall have served in excess of twenty (20) years, he shall, in addition to the said sum of One Hundred Twenty Dollars (\$120) receive an additional sum of Six Dollars (\$6) per month for each additional year served in excess of twenty (20) years. If any member of such System is retired for any reason prior to completing twenty (20) years service, and such member has completed at least ten (10) years service, and attained the age of sixty (60) years, he shall receive a monthly pension of less than One Hundred Twenty Dollars (\$120) calculated on the pro rata basis that his total service bears to the full term of twenty (20) years. Provided, that where any member of any such System has completed ten (10) years service with such city and shall thereafter attain sixty (60) years of age, he may, at his option, be retired and upon retirement shall receive a monthly pension which shall

be calculated on the pro rata basis that his term of service bears to the full term of twenty (20) years.

(b) If a member upon reaching the age of seventy (70) years does not retire from the service of the city, he shall not accrue any additional benefits, nor shall he make any further contributions into the Fund nor shall the city make any further contributions in his behalf. When a member retires after age seventy (70), his pension benefits shall be computed from his years of service at the time he reached the age of seventy (70). As amended Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, § 1(A).

Emergency. Effective Aug. 7, 1961.

#### Disability pensions

Sec. 13. If any member has completed ten (10) years, but less than twenty (20) years service with the city, and shall thereafter become totally and permanently disabled for any reason whatsoever, he shall be retired on a monthly pension which shall be calculated on the pro rata basis that his term of service bears to the full term of twenty (20) years. If any member has completed twenty (20) years service with the city and thereafter becomes totally and permanently disabled for any reason whatsoever, he shall be retired on the full One Hundred Twenty Dollars (\$120) per month pension, plus any bonus accrued for additional service as provided in Section 12 hereof.

If any member has completed less than ten (10) years service and becomes totally and permanently disabled as a result of the performance of his duties, or as a consequence of such performance, he shall be retired on a monthly pension of Sixty Dollars (\$60) per month.

By total and permanent disability is meant such disability as permanently incapacitates a member from performing the usual and customary duties which he has been performing for such city.

Before any disability pension is allowed, the Pension Board shall require such medical examination and such other evidence as it may see fit to establish such total and permanent disability, as above provided. If any member is eligible for retirement under Section 12 hereof, he shall not be retired on disability pension. The Board's decision shall be final.

When any member has been retired for total and permanent disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member shall refuse to submit himself to any such examination, the Pension Board may, within its discretion, order said payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for said city, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such pension payments stopped.

If any member of the Pension System, as herein defined, shall die from any cause whatsoever after having completed ten (10) years of service with the city, or if, while in the service of the city, any member shall die from any cause growing out of and/or in consequence of the performance of his duty, or shall die after he has been retired on pension because of length of service or disability and shall leave a surviving widow and/or widower and/or a child or children under the age of eighteen (18) years, said Board shall order paid a monthly allowance as follows:

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(a) To the widow and/or widower, so long as she/he remains a widow and/or widower and provided she/he shall have married such member prior to his/her retirement, a sum equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits that the deceased would be, had he/she been totally and permanently disabled, or had been entitled to, at the time of his/her retirement or death.

(b) To the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years.

(c) In the event the widow and/or widower dies after being entitled to her/his allowance as provided, or in the event there be no widow and/or widower to receive such allowance, the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each dependent minor child; provided, however, that the total allowance would be paid all beneficiaries or dependents, as herein provided, shall not exceed the monthly pension to be paid the pensioner had he continued to live or be retired on pension at the date of his death. Allowances or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries. By the term "guardian," as used herein, shall be meant the surviving widow and/or widower, any guardian appointed by law, or the person standing in loco parentis to such dependent minor child responsible for his or her care and upbringing. As amended Acts 1959, 56th Leg., p. 1099, ch. 501, § 1(E); Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, § 1(B).

Emergency. Effective Aug. 7, 1961.

#### Refund of contributions

Sec. 14. If any member's employment by the city is terminated for other than total and permanent disability arising as a result of or as a consequence of the performance of his duties prior to his having completed ten (10) years of service with the city, he shall not be paid any pension whatsoever, but he, or in the event of death his designated beneficiary and/or estate, shall receive the amount paid by him into the Pension Fund by way of salary deduction without interest as provided in Section 16 of this Act. As amended Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, § 1(C).

Emergency. Effective Aug. 7, 1961.

#### Computing period of service

Sec. 15. In computing the years of service required for retirement pension, interruption of less than three (3) months out of service shall be construed as continuous service without any deduction therefor; provided that the member shall pay into the Pension Fund all monthly contributions for the months out of service, but if out of service for more than three (3) months and less than five (5) years, credit shall be given for prior service, but deduction shall be made for the length of time out of service. If out of service more than five (5) years, no service prior to said time shall be counted. Any member's contribution to the Pension Fund based at one-half ( $\frac{1}{2}$ ) regular rate shall be computed on the basis of one-half ( $\frac{1}{2}$ ) service credit. As amended Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, § 1(D).

Emergency. Effective Aug. 7, 1961.

#### Termination of employment; death; re-employment

Sec. 16. When any member of such Pension System shall leave the employment of such city, either voluntarily or involuntarily, regardless of

years of service, before becoming eligible for a retirement or disability pension, he shall thereupon cease to be a member of such Pension System, but shall be entitled to a refund to him the sum of all the payments made by him into said Pension Fund without interest, or if, while still employed by the city, whether eligible for retirement or otherwise, a member dies and leaves no survivors as stated in Section 13 hereof, his designated beneficiary and/or estate shall be entitled to said refund; provided, it is not the intention of this amendatory Act to change the status of any former member of the Pension System whose services with the city were terminated under a previous Act.

It is contemplated that said sum shall be paid such departing member in a lump sum, but if, in the opinion of the Pension Board, the funds on hand are too low to justify such lump sum payment, said payment shall be refunded on a monthly basis in such amounts as may be determined by the Pension Board.

When a member has left the service of such city, as aforesaid, and has therefore ceased to be a member of such Pension System, if such person shall thereafter be re-employed by the city, he shall thereupon be reinstated as a member of such Pension System, provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician residing in said city, satisfactory to the Pension Board. Prior service of such member with such city shall not be counted toward his retirement pension unless such member returns to the service of the city within five (5) years from his separation therefrom and also shall, within three (3) months after his re-employment by the city, repay in one lump sum to such Pension Fund all monies withdrawn by him upon his separation from the service, plus interest thereon at the rate of five per cent (5%) per annum from the date of such withdrawal. As amended Acts 1959, 56th Leg., p. 1099, ch. 501, § 1(F); Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, § 1(E).

Emergency. Effective Aug. 7, 1961.

#### Members in military service

Sec. 21. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided for in this Act, nor shall they lose any previous years of service with the city caused by such military service. Furthermore, the city shall not be required to make any monthly payments into the Pension Fund on such member while he is engaged in the military service. Any member who engages in active military service shall, if he returns to employment by the city within three (3) months after termination of such service, receive credit for his time in such service and shall immediately at the beginning of his first full pay period begin repaying to the Pension Fund the equivalent of all monthly contributions for the total of the number of months elapsed since he went into such service, such repayment to be completed within twenty-four (24) months of re-employment, and the city shall pay into the Fund one and one-half (1½) times such amount. Credit for military service shall be limited to twenty-four (24) months, unless such period is extended by the Pension Board. As amended Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, § 1(F).

Emergency. Effective Aug. 7, 1961.

Acts 1961, 57th Leg., 1st C.S., p. 18, ch. 5, employees pension program under the § 2 provided: "The terms of this Act shall terms of their charter."  
not apply to any city operating a municipal



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 6243g—1. Police Officers' Pension System in cities of 500,000 or more**

**Investment of surplus**

Sec. 9. Whenever in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas, or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said funds. The funds may also be invested in a sum not to exceed ten per cent (10%) with a Federal credit union restricted to employees of the city. In making each and all such investments, such Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty per cent (50%) of said funds shall be invested at any given time in corporate stocks and bonds, nor shall more than one per cent (1%) of said funds be invested in securities issued by any one (1) corporation, nor more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks and bonds eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase, and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors. As amended Acts 1961, 57th Leg., p. 676, ch. 313, § 1.

Emergency. Effective June 14, 1961.

## TEXAS PROBATE CODE

### CHAPTER I—GENERAL PROVISIONS

#### § 3. Definitions and Use of Terms

(d) "Corporate fiduciary" means a trust company or bank having trust powers, existing or doing business under the laws of this state or of the United States, which is authorized by law to act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, or, although without general depository powers, depository for any moneys paid into court, or to become sole guarantor or surety in or upon any bond required to be given under the laws of this state. As amended Acts 1961, 57th Leg., p. 44, ch. 30, § 2.

Effective 90 days after May 29, 1931,  
date of adjournment.

### CHAPTER II—DESCENT AND DISTRIBUTION

#### § 46. Joint Tenancies

Where two (2) or more persons hold an estate, real, personal, or mixed, jointly, and one (1) joint owner dies before severance, his interest in said joint estate shall not survive to the remaining joint owner or joint owners, but shall descend to, and be vested in, the heirs or legal representatives of such deceased joint owner in the same manner as if his interest had been severed and ascertained. Provided, however, that by an agreement in writing of joint owners of property, the interest of any joint owner who dies may be made to survive to the surviving joint owner or joint owners; but no such agreement shall be inferred from the mere fact that the property is held in joint ownership. It is specifically provided that any husband and his wife may, by written agreement, create a joint estate out of their community property, with rights of survivorship. As amended Acts 1961, 57th Leg., p. 233, ch. 120, § 1.

Emergency. Effective May 15, 1961.

Acts 1961, 57th Leg., p. 233, ch. 120, § 2  
provided: "The amendment made in this  
Act shall not apply to pending litigation."

### CHAPTER IV—EXECUTION AND REVOCATION OF WILLS

Sec.

58a. Devises or bequests to trustees  
[New].

#### § 58a. Devises or bequests to trustees

By a will duly executed pursuant to the provisions of this Code, a testator may devise or bequeath property to the trustee of any trust (including an unfunded life insurance trust, even though the trustor has reserved any or all rights of ownership in the insurance contracts) the terms of which are evidenced by a written instrument in existence before or concurrently with the execution of such will and which is identified in such will, even though such trust is subject to amendment, modification, revocation or termination. The property so devised or bequeathed shall be added to the corpus of such trust to be administered as

a part thereof and shall thereafter be governed by the terms and provisions of the instrument establishing such trust, including written amendments or modifications thereto made before the death of the testator. An entire revocation of the trust prior to the testator's death shall cause the devise or bequest to lapse. Acts 1955, 54th Leg., p. 88, ch. 55, § 58a, added Acts 1961, 57th Leg., p. 43, ch. 29, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

§ 59. Requisites of a Will

Every last will and testament, except where otherwise provided by law, shall be in writing and signed by the testator in person or by another person for him by his direction and in his presence, and shall, if not wholly in the handwriting of the testator, be attested by two (2) or more credible witnesses above the age of fourteen (14) years who shall subscribe their names thereto in their own handwriting in the presence of the testator. Such a will or testament may, at the time of its execution or at any subsequent date during the lifetime of the testator and the witnesses, be made self-proved, and the testimony of the witnesses in the probate thereof may be made unnecessary, by the affidavits of the testator and the attesting witnesses, made before an officer authorized to take acknowledgments to deeds of conveyance and to administer oaths under the laws of this state. Provided that nothing shall require an affidavit, acknowledgment or certificate of any testator or testatrix as a prerequisite to self-proof of a will or testament other than the certificate set out below. The affidavits shall be evidenced by a certificate, with official seal affixed, of such officer attached or annexed to such will or testament in form and contents substantially as follows:

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, known to me to be the testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said \_\_\_\_\_, testator, declared to me and to the said witnesses in my presence that said instrument is his last will and testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, each on his oath stated to me, in the presence and hearing of the said testator, that the said testator had declared to them that said instrument is his last will and testament, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said testator and at his request; that he was at that time nineteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

\_\_\_\_\_  
Testator

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

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Subscribed and acknowledged before me by the said \_\_\_\_\_, testator, and subscribed and sworn to before me by the said \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_.

(SEAL)

(Signed) \_\_\_\_\_

(Official Capacity of Officer)

A self-proved will may be admitted to probate without the testimony of any subscribing witness, but otherwise it shall be treated no differently than a will not self-proved. In particular and without limiting the generality of the foregoing, a self-proved will may be contested, or revoked or amended by a codicil in exactly the same fashion as a will not self-proved. As amended Acts 1961, 57th Leg., p. 936, ch. 412, § 1.

Emergency. Effective June 17, 1961.

Section 2 of the 1961 amendatory act provided that all wills self-proved prior to the

passage of this Act which were executed in compliance with Section 59, of the Texas Probate Code are in all things relating to self-proving hereby ratified.

### CHAPTER V—PROBATE, GRANT OF ADMINISTRATION, AND GUARDIANSHIP

Sec.

105a. Appointment and service of foreign banks and trust companies in fiduciary capacity [New].

#### § 89. Action of Court on Probated Will

Upon the completion of hearing of an application for the probate of a will, if the Court be satisfied that such will should be admitted to probate, an order to that effect shall be entered. Certified copies of such will and the probate of the same, or of the record thereof, and the record of testimony, may be recorded in other counties, and may be used in evidence, as the original might be, on the trial of the same matter in any other court, when taken there by appeal or otherwise.

Probate of Wills as Muniments of Title. In each instance where the Court is satisfied that a will should be admitted to probate, and where the Court is further satisfied that there are no unpaid debts owing by the estate of the testator, excluding debts secured by liens on real estate, or for other reason finds that there is no necessity for administration upon such estate, the Court may admit such will to probate as a Muniment of Title.

The order admitting a will to probate as a Muniment of Title shall constitute sufficient legal authority to all persons owing any money, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property, or right belonging to the estate, and to persons purchasing from or otherwise dealing with the estate, for payment or transfer to the persons described in such will as entitled to receive the particular asset without administration. The person or persons entitled to property under the provisions of such wills shall be entitled to deal and treat with the properties to which they are so entitled in the same manner as if the record of title thereof were vested in their names. As amended Acts 1961, 57th Leg., p. 1072, ch. 480, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

§ 105a. Appointment and service of foreign banks and trust companies in fiduciary capacity

(a) Any bank or trust company organized under the laws of, and having its principal office in, the District of Columbia or any territory or state of the United States of America, other than the State of Texas, and any national bank having its principal office in the District of Columbia or such territory or other state (all such banks or trust companies being hereinafter sometimes called "foreign banks or trust companies"), having the corporate power to so act, may be appointed and may serve in the State of Texas as trustee (whether of a personal or corporate trust), executor, administrator, guardian of the estate, or in any other fiduciary capacity, whether the appointment be by will, deed, agreement, declaration, indenture, court order or decree, or otherwise, when and to the extent that the District of Columbia or territory or other state in which such foreign bank or trust company is organized and has its principal office grants authority to serve in like fiduciary capacity to a bank or trust company organized under the laws of, and having its principal office in, the State of Texas, or to a national bank having its principal office in the State of Texas.

(b) Before qualifying or serving in the State of Texas in any fiduciary capacity, as aforesaid, such a foreign bank or trust company shall file in the office of the Secretary of the State of the State of Texas (1) a copy of its charter, articles of incorporation or of association, and all amendments thereto, certified by its secretary under its corporate seal; (2) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the Secretary of State and his successors its agent for service of process upon whom all notices and processes issued by any court of this state may be served in any action or proceeding relating to any trust, estate, fund or other matter within this state with respect to which such foreign bank or trust company is acting in any fiduciary capacity, including the acts or defaults of such foreign bank or trust company with respect to any such trust, estate or fund; and (3) a written certificate of designation, which may be changed from time to time thereafter by the filing of a new certificate of designation, specifying the name and address of the officer, agent or other person to whom such notice or process shall be forwarded by the Secretary of State. Upon receipt of such notice or process, it shall be the duty of the Secretary of State forthwith to forward same by registered or certified mail to the officer, agent or other person so designated. Service of notice or process upon the Secretary of State as agent for such a foreign bank or trust company shall in all ways and for all purposes have the same effect as if personal service had been had within this state upon such foreign bank or trust company.

(c) No foreign bank or trust company shall establish or maintain any branch office, agency or other place of business within this state, or shall in any way solicit, directly or indirectly, any fiduciary business in this state of the types embraced by subdivision (a) hereof. Except as authorized herein or as may otherwise be authorized by the laws of this state, no foreign bank or trust company shall act in a fiduciary capacity in this state. Nothing in this Section shall be construed to authorize foreign banks and trust companies to issue or to sell or otherwise market or distribute in this state any investment certificates, trust certificates, or other types of securities (including without limiting the generality of the foregoing any securities of the types authorized by Chapter 7 of the Insurance Code of 1951 prior to the repeal thereof), or to conduct any ac-

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tivities or exercise any powers of the type embraced and regulated by the Texas Banking Code of 1943 other than those conducted and exercised in a fiduciary capacity under the terms and conditions hereof.

(d) Any foreign bank or trust company acting in a fiduciary capacity in this state in strict accordance with the provisions of this Section shall not be deemed to be doing business in the State of Texas within the meaning of Article 8.01 of the Texas Business Corporation Act; shall be deemed qualified to serve in such capacity under the provisions of Section 105 of this Code; and shall not be prohibited by the provisions of Chapter 137, Acts of the 55th Legislature, Regular Session, 1957, amending Article 342-902 of the Texas Banking Code of 1943, from using in its name and stationery the terms "bank," "trust," or "bank and trust."

(e) The provisions hereof are in addition to, and not a limitation on, the provisions of Section 2 of Chapter 388, Acts of the 55th Legislature, Regular Session, 1957.

(f) Any foreign bank or trust Company which shall violate any provision of this Section 105a shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not exceeding Five Thousand Dollars (\$5,000.00), and may, in the discretion of the court, be prohibited from thereafter serving in this state in any fiduciary capacity. Acts 1955, 54th Leg., p. 88, ch. 55, § 105a, added Acts 1961, 57th Leg., p. 46, ch. 31, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Surety company, bond and venue of suit, see V.A.T.S. Insurance Code, arts. 7.01, 7.19-1.

Admission of foreign corporation, see V.A.T.S. Bus.Corp. Act, art. 8.01 et seq.

Trust company, creation and purposes, see Vernon's Ann.Civ.St. art. 1513a.

Powers of state banks, see Vernon's Ann. Civ.St. art. 342-301.

Unauthorized banking, see Vernon's Ann. Civ.St. art. 342-902.

CHAPTER VIII—PROCEEDINGS DURING ADMINISTRATION AND GUARDIANSHIP

§ 367. Mineral Leases After Public Notice

(c) 7. Term of Lease Binding. Every such lease, when executed and delivered in compliance with the rules hereinabove set out, shall be valid and binding upon the property or interest therein owned by the estate and covered by the lease for the full duration of the term as provided therein, subject only to its terms and conditions, even though the primary term shall extend beyond the date when the estate shall have been closed in accordance with law; provided the authorized primary term shall not exceed five (5) years, subject to terms and provisions of the lease extending it beyond the primary term by paying production, by bona fide drilling or reworking operations, whether in or on the same or additional well or wells, with no cessation of operations of more than sixty (60) consecutive days before production has been restored or obtained, or by the provisions of the lease relating to a shut-in gas well. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 10(a); Acts 1961, 57th Leg., p. 441, ch. 215, § 1.

7(a). Validation of Certain Provisions of Leases Heretofore Executed by Personal Representatives. As to any valid mineral lease heretofore executed and delivered in compliance with the provisions of the Texas Probate Code and which lease is still in force, any provisions of any such lease continuing such lease in force after its five (5) year primary term by a shut-in gas well are hereby validated; provided, however, that this

For Annotations and Historical Notes, see V. T. A. S.

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provision shall not be applicable to any such provision of any such lease which is involved in any lawsuit pending in this state on the effective date of this Act wherein the validity of such provision is an issue. Added Acts 1961, 57th Leg., p. 441, ch. 215, § 2.

8. **Amendment of Leases.** Any oil, gas, and mineral lease heretofore or hereafter executed by a personal representative pursuant to the Texas Probate Code may be amended by an instrument which provides that a shut-in gas well on the land covered by the lease or on land pooled with all or some part thereof shall continue such lease in force after its five (5) year primary term. Such instrument shall be executed by the personal representative, with the approval of the court, and on such terms and conditions as may be prescribed therein. Added Acts 1961, 57th Leg., p. 441, ch. 215, § 3.

Emergency. Effective May 25, 1961.

#### § 369. Pooling or Unitization of Royalty or Minerals

(a) (2) That any lease covering any part of the area committed to a pool or unit shall continue in force in its entirety as long as oil, gas, or other mineral subject to the agreement is produced in paying quantities from any part of the pooled or unitized area, or as long as operations are conducted as provided in the lease on any part of the pooled or unitized area, or as long as there is a shut-in gas well on any part of the pooled or unitized area, if the presence of such shut-in gas well is a ground for continuation of the lease by the terms of said lease. As amended Acts 1961, 57th Leg., p. 441, ch. 215, § 4.

Emergency. Effective May 25, 1961.

#### § 389. Investments

(g) In interest-bearing time deposits which may be withdrawn on or before one year after demand in any bank doing business in Texas where the payment of such time deposits is insured by the Federal Deposit Insurance Corporation. Added Acts 1961, 57th Leg., p. 42, ch. 28, § 1.

Emergency. Effective March 25, 1961.

TITLE 110A—PUBLIC OFFICES

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| <p>Art.<br/>6252—11. Position Classification Act of 1961<br/>[New].</p> <p>6252—12. Use of electronic data processing<br/>center by state agencies [New].</p> | <p>Art.<br/>6252—13. Administrative rules and regula-<br/>tions; adoption; filing [New].</p> |
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Art. 6252—6. State property; responsibility and accounting

Agencies and Property Subject to Control

Sec. 4.

(d) All medical, surgical, technical equipment and supplies provided by the Texas State Department of Health to Local Public Health Units, Local Public Health Laboratories, state institutions, and non-profit institutions, contributing to the promotion and maintenance of public health by the usage of such medical, surgical, technical equipment and supplies shall be accounted for by that Department and not by the system prescribed in this Act.

And providing further, that all medical, surgical, technical equipment and supplies provided by the Texas State Department of Health to Local Public Health Units, Local Public Health Laboratories, state institutions, and non-profit institutions, contributing to the promotion and maintenance of public health by the usage of such medical, surgical, technical equipment and supplies which are now being accounted for and complying with the provisions under the present system of accounting shall be deleted from and not required after the passage and the effective date of this Act.

Provided, however, the State Department of Health shall maintain at all times a complete record of such medical, surgical, technical equipment and supplies provided and such records shall be verified by the State Auditor and available to the Federal Auditors for the Agency of the Federal Government making such grants for assistance in the purchase of such medical, surgical, technical equipment and supplies. Added Acts 1961, 57th Leg., p. 165, ch. 85, § 1.

Emergency. Effective May 1, 1961.

State board of insurance, standard of conduct of employees and agents, see V.A.T.S. Insurance Code, art. 1.09—3.

Art. 6252—11. Position Classification Act of 1961

Title

Section 1. This Act may be cited as the "Position Classification Act of 1961."

Conformance with plan; minimum salary; exceptions and deferrals from plan

Sec. 2. All regular, full-time salaried employments within the departments and agencies of the State specified in Article III, and the Central Education Agency, Deaf and Blind Schools in Article IV, and all such State employments in positions other than for Judges, District Attorneys, and Assistant District Attorneys specified in Article I of the biennial Appropriations Act, shall conform with the Position Classification Plan hereinafter described and with the salary rates and provisions



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of the applicable Appropriations Act commencing with the effective date of this Act, with the exceptions and deferments hereafter provided in this Section.

Effective January 1, 1962, all regular, full-time salaried employments in executive or administrative agencies of the State, regardless of whether their funds are kept inside or outside the State Treasury, shall also conform with the Position Classification Plan hereinafter described and with the salary rates and provisions of the General Appropriations Act with the exceptions hereinafter provided in this Section.

It is further provided, however, that no employee who is presently employed by the State shall be paid less through the application of this Act than the salary he received in accordance with the provisions of House Bill No. 4, Acts of the Fifty-sixth Legislature, Third Called Session, 1959, or the minimum of the appropriate salary range specified in the General Appropriations Act effective September 1, 1961, whichever is the higher, so long as said employee remains in such classified position under the Position Classification Plan.

Specifically excepted from the Position Classification Plan hereinafter described are constitutionally named and elective officers and officials; officers appointed by the Governor; the chief executive head of any State agency covered by the first two paragraphs of this Section; teachers in public schools and special schools of the State, and in the State colleges, universities, and other agencies of higher education; research personnel in State colleges, universities, and other agencies of higher education; medical doctors; professional services compensated on a fee basis; hourly employees, part-time, and temporary employees; and such other positions in the State Government as have heretofore been or as may hereafter be excluded from such Position Classification Plan by executive order of the Governor or by direction of the Legislature.

Deferred from the provisions of such Position Classification Plan until September 1, 1963, are all positions in Article II of the General Appropriations Act covering employments in the State Hospitals and Special Schools and in offices and institutions of the Texas Youth Council except those specifically excluded heretofore in this Section.

Also deferred from the provisions of such Position Classification Plan until such time as it is deemed practical by order of the Governor or by direction of the Legislature to study and make application of such Plan, are all nonacademic employments in the State colleges, universities, and other agencies of higher education.

#### **Texas Position Classification Plan, 1961; joint recommendations**

Sec. 3. The Position Classification Plan established for the State Government by this Act shall be that plan which was filed with the Governor by the Lieutenant Governor and Speaker of the House of Representatives pursuant to the joint recommendations of the Senate Finance Committee and House Appropriations Committee of the Fifty-seventh Legislature under date of May 10, 1961, and entitled "Texas Position Classification Plan, 1961," together with any additions, deletions, or modifications which may be approved by the Classification Officer hereinafter established and pursuant to the provisions of this Act, or pursuant to any future enactments of the Legislature.

Conformance of regular full-time salaried employments with described classes of work; examination of expenditures; report

Sec. 4. Commencing with the effective date of this Act, all regular full-time salaried employments with the exceptions and deferments specified hereinabove shall be made only in conformity with the classes of work described in such Position Classification Plan, and under the titles authorized by such Plan. The State Auditor shall examine or cause to be examined in periodic post-audits of expenditures of State departments and agencies, and by such methods as he deems appropriate and adequate, whether employments have been made in accordance with the provisions of this Act, and shall report the facts as found to the Governor, the Comptroller, and the Legislative Audit Committee.

Existing statutory authorizations for employing, promoting or dismissing employees; general qualifications requirements; merit systems; new class description of work

Sec. 5. Nothing in this Act shall be construed or applied by any officer or employee of the State as interfering in any way with existing statutory authorizations for governing bodies and executive heads to employ such persons as they may choose, or to select for promotion from one class of employment to another such employees as they may choose, or to dismiss from employment by the State such employees as they may choose to dismiss.

It is further provided that wherever the phrase "General Qualifications Requirements," or any words or phrases of similar meaning, are found in the Position Classification Plan established by this Act, such specifications thereunder as may be set forth for experience and training, or for education, or for knowledges, skills and abilities, or for physical conditions, shall only mean those which are commonly desired by employing officers of the State; and such indicated requirements shall not be interpreted as having the force of law.

The preceding two paragraphs of this Section, however, shall not be construed as abrogating statutory authorizations for certain State agencies to operate under employee merit systems as a condition for qualifying for Federal grants-in-aid; and all such merit systems as have been or may hereafter be agreed to by the respective State agencies and agencies of the U. S. Government shall be in full force and effect, subject only to the applicable laws of this State.

Should any governing board or executive head of an agency affected by the provisions of this Act find need for the employment of a person in a class or kind of work which he believes is not described in the Position Classification Plan, such board or executive head shall notify the Classification Officer of the facts, and such Classification Officer shall promptly provide, within the limitations of the General Appropriations Act and subject to the approval of the State Auditor after obtaining the advice of the Legislative Audit Committee, either an existing or a new class description of work and a corresponding salary range which will permit such needed employment. Notification of such action shall be made to the Comptroller of Public Accounts by the Classification Officer. Nothing in this paragraph or in this Act, however, shall be so construed as to authorize an increase in the number of positions or in the amount of appropriations as may be set forth for any such agency in the General Appropriations Act.

Classification officer; qualifications; duties; assistant; use of data processing center; periodic studies; exceptions to or violations of plan; appeals

Sec. 6. There is hereby established in the office of the State Auditor the position of Classification Officer. The Classification Officer shall be appointed by the State Auditor, subject to the advice and approval of the Legislative Audit Committee. No person shall be appointed to the office of Classification Officer who has not had a minimum of six (6) years experience in position classification or personnel management work, or an equivalent period of experience in related work in State employment as to peculiarly qualify him for the position. Such Classification Officer shall be paid such annual salary as may be set in the Appropriations Act, and shall have for the performance of his duties such assistance as the State Auditor may assign to him from the appropriations provided for that purpose.

The Classification Officer may, subject to the approval of the State Auditor and the Legislative Audit Committee, appoint a First Assistant Classification Officer to whom he may delegate in his absence statutory authority and responsibility as is provided the Classification Officer in this Act and other acts relating to the Position Classification Plan.

The Classification Officer also may have at his disposal when available without charge the use of the data processing center in the office of the Comptroller of Public Accounts for purposes of processing any position classification data that might be pertinent and useful.

In accordance with the provisions of law, the Classification Officer shall maintain on a current and accurate basis the Position Classification Plan, advise and assist State agencies to insure equitable and uniform application of such Plan, assist in personnel audits to assure conformity, and make such recommendations as he may think necessary and desirable respecting the operation and improvement of the Position Classification Plan to the Governor and the Legislature.

The Classification Officer also shall make periodic studies of salary rates paid in industry and other governmental units for like or similar work performed in the State Government, and shall report his findings and recommendations for the realistic adjustment of State salary ranges to the Governor's Budget Office and to the Legislative Budget Board by not later than October 1st immediately preceding a Regular Session of the Legislature.

When exceptions to or violations of the Position Classification Plan or of prescribed salary ranges are revealed by personnel audits, the Classification Officer shall notify the agency head in writing and specify the points of nonconformity or violation. The executive head of such agency shall then have reasonable opportunity to resolve the exception or end the violation by reassigning the employee to another position title or class consistent with the work actually performed, by changing the employee's title or salary rate to conform to the prescribed Classification Plan and salary range, or by obtaining a new class description of work and salary range to correct the exception or violation.

If no action is taken by the executive head of such agency to correct or end the exception or violation within twenty (20) calendar days following the date of the written notification made by the Classification Officer, such Officer shall make a written report of the facts to the Governor and the Legislative Budget Board. The Governor may then deter-

mine, after obtaining the advice of the Legislative Audit Committee, the action to be taken in correcting the exception or violation and may, within his discretion, direct the Comptroller not to issue payroll warrants for the employee or for the position affected by the exception or violation until such discrepancy has been corrected.

Any decision or finding made by the Classification Officer under the provisions of this Act may be appealed by any employee or by the executive head of any agency to the Legislative Audit Committee under such rules governing appellate procedure as said Committee may adopt. Acts 1961, 57th Leg., p. 238, ch. 123.

Emergency. Effective September 1, 1961.

Deductions from salary for neglect of duty, see Const. art. 16, § 10.

Salaries of state employees, see art. 6813 et seq.

State auditor, powers and duties, see art. 4413a—13.

Art. 6252—12. Use of electronic data processing center by state agencies

From and after the effective date of this Act every state agency wherever practicable shall use the electronic data processing center operated by the Comptroller of Public Accounts in performing such accounting and data processing activities of the agency as may be practically adapted to the use of this equipment. The Comptroller of Public Accounts shall permit the use of the central electronic computing and data processing center equipment by all other agencies of the state with or without charge, but under such rules and regulations as may insure the proper use and functioning of such equipment for the efficient and economical management of state government. Acts 1961, 57th Leg., p. 444, ch. 217, § 1.

Effective 90 days after May 29, 1961. date of adjournment.

Comptroller of public accounts, authority to establish and operate central electronic data processing center, see art. 4344(b).

Art. 6252—13. Administrative rules and regulations; adoption; filing

Definitions

Section 1. For the purpose of this Act:

(a) "Agency" means any State board, commission, department, or officer, authorized by law to make rules, except those in the legislative or judicial branches or institutions of higher education.

(b) "Rule" includes every regulation, standard, or statement of policy or interpretation of general application and future effect, including the amendment or repeal thereof, adopted by an agency, whether with or without prior hearing, to implement or make specific the law enforced or administered by it or to govern its organization or procedure, but does not include regulations concerning only the internal management of the agency and not directly affecting the rights of or procedure available to the public.

Adoption of Rules

Sec. 2. In addition to other rule-making requirements imposed by law:

(a) Each agency shall adopt rules governing the formal and informal procedures. Such rules shall include rules of practice before the agency, together with forms and instructions.

(b) To assist interested persons dealing with it, each agency shall, so far as deemed practicable, supplement its rules with descriptive statements of its procedures.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall, so far as practicable, publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views orally or in writing.

#### Filing and Taking Effect of Rules

Sec. 3. (a) Within ninety (90) days after the effective date of this Act each agency shall file in the office of the Secretary of State a certified copy of each rule adopted by it now in effect. The Secretary of State shall keep a permanent register of such rules open to public inspection.

(b) Each rule adopted after the effective date of this Act shall take effect not less than thirty (30) days after filing, except emergency rules concerning health, safety and morals may take effect upon issuance.

#### Failure to File Voids Rule

Sec. 4. Any rule made by any agency not in conformity with this Act shall be void and of no effect.

#### Severability

Sec. 5. If any provisions of this Act or application thereof to any agency, person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1961, 57th Leg., p. 581, ch. 274.

Effective August 31, 1961.

Contracts of state agencies with federal government, filing with secretary of state, see art. 4341a.

Interagency cooperation, see art. 4413 (32).

Publications of state agencies, see art. 4413(33).

Secretary of state, general duties, see art. 4331.

#### Title of Act:

An Act concerning the adoption and filing of rules and regulations of State administrative agencies authorized by law to make rules and regulations; and declaring an emergency. Acts 1961, 57th Leg., p. 581, ch. 274.

## TITLE 112—RAILROADS

### CHAPTER ONE—CHARTER AND AMENDMENTS

#### Art. 6259. 6405, 4350, 4099 Incorporation

Organization of railroads, miscellaneous corporation laws, see art. 1302—3.05.

### CHAPTER SIX—RIGHT OF WAY

#### Art. 6330. 6497, 4438, 4173 Streets, etc.

Grade-level street crossings by railroad lines, elimination, see art. 1105c.

## TITLE 115—REGISTRATION

## CHAPTER THREE—EFFECT OF RECORDING

Art. 6626a. Subdivision plats; recording; counties of less than 190,000 population; powers of commissioners court

Section 1. Hereafter, in all counties having a population of less than one hundred ninety thousand (190,000) according to the last preceding Federal Census, every owner of any tract of land situated without the corporate limits of any city in the State of Texas, who may hereafter divide the same in two (2) or more parts for the purpose of laying out any subdivision of any such tract of land, or an addition without the corporate limits of any town or city, or for laying out suburban lots or building lots, and for the purpose of laying out streets, alleys, or parks, or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof, which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition and the dimensions of all lots, streets, alleys, parks, or other portions of same, intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, provided, however, that no plat of any subdivision of any tract of land or any addition shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto. As amended Acts 1961, 57th Leg., p. 1022, ch. 449, § 1.

Emergency. Effective June 17, 1961.

Section 2 of the amendatory act of 1961 provided: "Chapter 436, Acts of the 55th Legislature, Regular Session, 1957, as hereby amended, does not limit the requirement of prior approval of plats by cities, under Chapter 231, Acts of the 40th Legislature, Regular Session, 1927, as last amended by

Chapter 317, Acts of the 54th Legislature, Regular Session, 1955."

County clerk's failure of duty as to recording plats, see Vernon's Ann.P.C. art. 427b.

Platting and recording subdivisions or additions; cities and towns, see art. 974a.

Arts. 6635, 6636, 6641, 6644

*Repeal of fee provisions, see art. 3930a, note.*

## CHAPTER FIVE—GENERAL PROVISIONS

Art. 6662. [6858] [4669] Attachments recorded

*Repeal of fee provisions, see art. 3930a, note.*

## TITLE 116—ROADS, BRIDGES, AND FERRIES

## CHAPTER ONE—STATE HIGHWAYS

## Art. 6675a-2. Registration

(a). Every owner of a motor vehicle, trailer or semitrailer used or to be used upon the public highways of this State shall apply each year to the State Highway Department through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; provided, that where a public highway separates lands under the dominion or control of the owner, the operation of such a motor vehicle by such owner, his agent or employee, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State.

(b). Owners of farm tractors, farm trailers and farm semitrailers with a gross weight not exceeding four thousand (4,000) pounds, and implements of husbandry operated or moved temporarily upon the highways shall not be required to register such farm tractors, farm trailers, farm semitrailers and implements of husbandry.

(c). Owners of farm trailers and farm semitrailers with a gross weight exceeding four thousand (4,000) pounds but not exceeding ten thousand (10,000) pounds and used solely to transport their own seasonally harvested agricultural products and livestock from the place of production to the place of process, market or storage thereof, or farm supplies from the place of loading to the farm, and owners of machinery used solely for the purpose of drilling water wells or road construction machinery (not designed for the transportation of persons or property on the public highways), may operate or move such vehicles temporarily upon the highways without the payment of the regular registration fees as prescribed by law, provided the owners of such farm trailers and semitrailers and machinery secure for a fee of Five Dollars (\$5) for each year or portion thereof a distinguishing license plate from the State Highway Department through the County Tax Collector upon forms prescribed and furnished by the Department. Such vehicles shall be exempt from the inspection requirements of Sections 140 and 141 of the Uniform Act Regulating Traffic on Highways.

(d). As used in this Section, the term "gross weight" means the combined weight of the trailer or semitrailer and the weight of the load actually carried on the highway.

(e). The exemptions from registration under Subsection (b) hereof and from regular fees under Subsection (c) hereof shall apply to farm trailers and farm semitrailers owned by cotton gins and used solely for supplying, without charge, such farm trailers and farm semitrailers to farmers to haul agricultural products from the place of production to the place of process, market or storage of such agricultural products.

(f). The exemptions from registration under Subsection (b) hereof and from regular fees under Subsection (c) hereof, shall not apply to any farm trailer or semitrailer:

(1) Operating at a speed in excess of thirty (30) miles per hour when the gross weight of such trailer or semitrailer exceeds four thousand (4,000) pounds;

- (2) When the same is used for hire;
- (3) When the vehicle has steel or metal tires operating in contact with the roadway;
- (4) When not equipped with an adequate hitch pinned or locked so that it will remain securely engaged to the towing vehicle while in motion;
- (5) Which is not operated and equipped in conformity with all other provisions of the law.

(g). Any vehicle exempt from registration under Subsection (b) hereof or from regular fees under Subsection (c) hereof and operated and moved upon the public highways of this State in violation of this Section shall be deemed to be operated or moved unregistered and shall immediately be subject to the regular registration fees and penalties as prescribed by law. As amended Acts 1961, 57th Leg., p. 554, ch. 259, § 1.

Effective 90 days after May 29, 1961, date of adjournment. Section 2 of the amendatory act of 1961 amended art. 6701d, sec. 132(3).

**Art. 6675a—3. Application for registration**

(a) Application for the registration of a vehicle required to be registered hereunder shall be made on a form furnished by the Department. Each such application shall be signed by the owner of the vehicle, and shall give his name and address in full, and shall contain a brief description of the vehicle to be registered. The description, in case of a new motor vehicle, shall include: the trade name of the vehicle; the year model; the style, type of body and the weight, if a passenger car, or the net carrying capacity and gross weight if a commercial motor vehicle; the motor number; the date of sale by manufacturer or dealer to the applicant. The application shall contain such other information as may be required by the Department.

(b) It is expressly provided that the owner of a vehicle previously registered in any State for the preceding or current year may, in lieu of filing an application as hereinbefore directed, present the license receipt and transfer receipts, if any, issued for the registration or transfer of the vehicle for the preceding calendar year, and the receipt or receipts shall be accepted by the County Tax Collector as an application for the renewal of the registration of the vehicle, provided the receipts show that the applicant is the rightful owner thereof. Provided, however, that if an owner or a claimed owner offering to register a vehicle has lost or misplaced the registration receipt or transfer, then upon his furnishing satisfactory evidence to the Tax Collector by affidavit or otherwise that he is the real owner of the vehicle, it shall become the duty of the Tax Collector to issue him license therefor. It shall be the duty of the Tax Collector to date each registration receipt issued for the vehicle the same date that application is made for registration of such vehicle.

(c) Owners of motor vehicles, trailers and semi-trailers which are the property of and used exclusively in the service of the United States Government, the State of Texas, or any county, city or school district thereof, shall apply annually to the Department as provided in Section 3-aa of this Act to register all such vehicles, but shall not be required to pay the registration fees herein prescribed, provided that affidavit is made at the time of registration by a person who has the proper authority that such vehicles are the property of and used exclusively in the service of the United States Government, the State of Texas, or a county, city or school district thereof, as the case may be. Owners of vehicles designed and used exclusively for fire fighting shall apply to the Depart-



ment as provided in Section 3-aa of this Act to register all such vehicles, but shall not be required to pay the registration fees herein prescribed, provided that affidavit is made at the time of registration by a person who has the proper authority that such vehicles are used exclusively for fire fighting; and provided further, that such person shall supply the Department with a reasonable description of the vehicle and the fire fighting equipment mounted thereon.

(d) Owners of commercial motor vehicles, truck-tractors, trailers and semitrailers which are the property of and used exclusively by non-profit disaster relief organizations and are used solely for emergencies shall apply to the Department as provided in Section 2 of this Act (compiled as Article 6675a-3aa of Vernon's Texas Civil Statutes) to register all such vehicles, but shall not be required to pay the registration fees herein, but shall pay a fee of Five Dollars (\$5) provided that affidavit shall be made at the time of registration by the owner of said vehicle that said vehicle is used exclusively for emergencies; provided further that such owner shall supply the Department with a reasonable description of the vehicle and the emergency equipment contained therein; provided further that each commercial motor vehicle and truck-tractor displays the name of the organization on each front door; provided further that if said vehicle is used for any purpose other than emergency usage, then such vehicle shall not be exempted under this Section at any future time. Affidavit of the sheriff of the county in which said vehicle is registered that said vehicle has not been used for any purpose except emergency usage shall be required before said vehicle shall be so licensed. Provided, however, that each vehicle so licensed shall be furnished an appropriate plate or tag indicating its status, which shall be displayed at all times.

(e) Application shall be made for the registration of a new vehicle for the unexpired portion of the year in which it is acquired before it is operated on the public highways; except that a new vehicle may be operated temporarily by a dealer under the dealer's license number or by its purchaser under a special dealer cardboard number, as provided in Chapter 211, General and Special Laws of the Regular Session of the Fortieth Legislature, as amended. The year for the purpose of registration of motor vehicles shall be April 1st to March 31st of the next succeeding calendar year, and may be referred to as the "Motor Vehicle Registration Year"; and "current year" where used in the statutes relating to payment of registration fees shall mean that Vehicle Registration Year. Application for the renewal of registration of a vehicle shall be made not later than April 1st of such year. As amended Acts 1961, 57th Leg., p. 666, ch. 307, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 6686. Dealer's license; notice of sale or transfer; temporary license plates**

(a) Any manufacturer of or dealer in motor vehicles in this state may, instead of registering each vehicle he may wish to show or demonstrate on the public highways, apply for registration and secure a general distinguishing number which may be attached to any motor vehicle or motorcycle which he sends temporarily upon the road. The annual fee for such dealers or manufacturers registration of a general distinguishing number shall be Fifteen Dollars (\$15.00), and additional number plates bearing said number desired by any dealer or manufacturer shall be as-

signed and registered for a fee of Five Dollars (\$5.00) each. A dealer within the meaning of this Article means any person, firm or corporation engaged in the business of selling automobiles who runs them upon the public highways or streets for demonstration for the purpose of sale; and this Act shall not be construed as permitting the use of a dealer's license or number plate on any vehicle owned or used by such a dealer for any other purpose than demonstration for the purpose of sale. Every dealer or manufacturer in making application for a dealer's or manufacturer's license shall apply for same in writing on a form prescribed and provided by the State Highway Commission. The application, if by a dealer, shall state that the applicant is a dealer within the meaning of this Act, and if he holds a contract with an automobile manufacturer or distributor for the distribution or sale of motor vehicles or motorcycles he shall so state in the application, giving make of vehicle he handles and name of such manufacturer or distributor. The facts stated in an application shall be sworn to before an officer authorized to administer oaths. No dealers or manufacturers license or number plates shall be issued until this Article is complied with. Any manufacturer of motor vehicles in this state may instead of registering each vehicle he may wish to test upon the public highways apply and secure a distinguishing number which may be attached to any such motor vehicle sent upon the highways for the purpose of testing; provided, however, that no load may be carried upon commercial motor vehicles being so tested. The annual fee for such manufacturer's distinguishing number shall be Fifteen Dollars (\$15.00). As amended Acts 1961, 57th Leg., p. 36, ch. 23, § 1.

Emergency. Effective March 14, 1961.

Art. 6687b. Driver's, chauffeur's, and commercial operator's licenses;  
accident reports

Sec. 15. Disposition of Fees

All fees and charges required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week to the Department at Austin, Texas, and Two Dollars (\$2) derived from each chauffeur's license fee, and One Dollar and Fifty Cents (\$1.50) derived from each commercial operator's license fee, and One Dollar (\$1) derived from each operator's license fee shall be deposited in the State Treasury in the General Revenue Fund of the State; and the remainder of all fees so collected shall be deposited in the State Treasury in a fund to be known as the Operator's and Chauffeur's License Fund.

Fees and charges deposited in the Operator's and Chauffeur's License Fund under the provisions of this Act may, upon appropriation by the Legislature, be used by the Texas Department of Public Safety for the payment of salaries, purchase of equipment and supplies, maintenance, and any and all other necessary expenses incident to the operation of the Department of Public Safety in carrying out the duties as are by law required of such Department. Any remaining balance in the Operator's and Chauffeur's License Fund on September 1st of each and every year shall remain in such Fund and shall be available for appropriation by the Legislature for the maintenance and support of the Texas Department of Public Safety as set forth hereinabove. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. IV, § 2.

Effective Sept. 1, 1961.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

### Sec. 19. Fees for License

The fees as provided for in this Act shall be as follows:

For a chauffeur's license, Six Dollars (\$6); for a commercial operator's license, Four Dollars and Fifty Cents (\$4.50); and for an operator's license, Three Dollars (\$3). As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. IV, § 1.

Effective Sept. 1, 1961.

## CHAPTER ONE A--TRAFFIC REGULATIONS

Art.

6701d-3. Proof of existence of traffic control device; prima facie proof of lawful installation [New].

### Art. 6701d. Uniform Act Regulating Traffic on Highways

Authority of the Department of Public Safety with reference to lighting devices

#### Sec. 108B.

(c) The Department is further authorized to establish the procedure which shall be followed when any device is submitted for approval. Any person, firm, or corporation, may submit to the Department any such lamp, device, equipment, or material, required to be approved by the Department, and to make application that the same be tested as to conformity with the requirements of the law and the regulations of the Department. Upon such application being made, the Department shall cause such test to be made as may be necessary to determine whether to approve or disapprove, and may submit any such lamp, device, equipment, or material, to The University of Texas, which is hereby designated as the official testing agency, with a request that it be tested as to conformity with the requirements of the law and the regulations of the Department. Each such applicant shall, upon the filing of his application, pay to the Department of Public Safety a fee of Fifty Dollars (\$50). All such fees shall be paid by the Department into the State Treasury to be deposited to the credit of the General Revenue Fund. As amended Acts 1961, 57th Leg., p. 266, ch. 141, § 1.

Effective Sept. 1, 1961.

*Section 2 of the amendatory act of 1961 provided:*

*"Sec. 2. The Highway Light Test Fund (No. 8) is hereby abolished and the unexpended balance in that fund as of August 31, 1961, shall be transferred to the General Revenue Fund within thirty (30) days after September 1, 1961."*

Section 3 of the amendatory act of 1961 provided: "This Act shall become effective on September 1, 1961."

New motor vehicles to be equipped with reflectors

#### Sec. 112.

(b) Every such reflector shall be mounted on the motor vehicle at a height not less than twenty (20) inches nor more than sixty (60) inches above the ground on which the vehicle stands and shall be of such size and characteristics and so maintained as to be visible at night from all distances within three hundred (300) feet to fifty (50) feet from such vehicle except that visibility from a greater distance is hereinafter re-

quired of reflectors on certain types of vehicles. As amended Acts 1961, 57th Leg., p. 439, ch. 213, § 1.

Emergency. Effective May 25, 1961.

Brakes

Sec. 132.

3. Every trailer or semitrailer of a registered or actual gross weight of three thousand (3,000) pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied; provided, that this Subsection shall not apply to any farm trailer or farm semitrailer operated or moved temporarily upon the highways when its gross weight does not exceed ten thousand (10,000) pounds and when the speed of such farm trailer or farm semitrailer does not exceed thirty (30) miles per hour, and when the vehicle and its operation meet all of the other requirements for total or partial exemption from registration fees as set forth in Section 2 of Chapter 88, General Laws of the Forty-first Legislature, Second Called Session, 1929, as last amended by Chapter 111, Acts of the Fifty-fifth Legislature, Regular Session, 1957 (codified as Article 6675a-2 in Vernon's Texas Civil Statutes). The term "gross weight" as used in this Subsection shall mean the combined weight of the trailer or semitrailer and the weight of the load actually carried on the highway. As amended Acts 1961, 57th Leg., p. 554, ch. 259, § 2.

Emergency. Effective May 29, 1961.

Section 1 of the amendatory act of Acts 1961, 57th Leg., p. 554, ch. 259, amended art. 6675a-2.

Proof of existence of traffic-control device, prima facie proof of lawful installation, see art. 6701d-3.

Art. 6701d-3. Proof of existence of traffic control device; prima facie proof of lawful installation

Section 1. In any civil case in this State, proof by either party to the case of the existence of any traffic control device, including, but not limited to, control lights, stop signs, and one-way street signs, on or alongside any public thoroughfare shall constitute prima facie proof of all facts (including proof of competent authority and a duly enacted ordinance by municipalities or all duly promulgated orders by Commissioners Courts) necessary to prove the proper, lawful installation of such sign or device at that place. Such proof of the existence of any one-way street sign shall further constitute prima facie proof that the public thoroughfare on or alongside of which it was placed was duly designated by proper, competent authority to be a one-way public thoroughfare for traffic to go only in the direction indicated by the sign. The prima facie proof herein provided for may be rebutted by any party to the suit. Acts 1961, 57th Leg., p. 697, ch. 325.

Effective 90 days after May 29, 1961, date of adjournment.

Obedience to official traffic-control devices, see art. 6701d, § 32.

Display of unauthorized signs, signals or markings, see art. 6701d, § 36.

Restricted traffic zones in counties of 150,000 or more, traffic control devices, see art. 6701g, § 3.

Injunction against unauthorized signals and signs, see art. 6701d, § 160.

Local traffic-control devices, see art. 6701d, § 31.

Traffic signals on highways outside cities, proof of installation, see Vernon's Ann. P.C. art. 827e, § 3.

**ROADS, BRIDGES, AND FERRIES Art. 6701g**

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Traffic signals or signs in cities or towns with less than 2,500 population, see art. 6701d, § 153.

side any public thoroughfare of any traffic control device prima facie proof that such device had been lawfully installed by competent authority at the place of its location; and declaring an emergency. Acts 1961, 57th Leg., p. 697, ch. 325.

**Title of Act:**

An Act making proof by either party to a civil suit of the existence of, or along-

**Art. 6701g. Restricted traffic zones in counties of 150,000 or more population**

Proof of existence of traffic-control device, prima facie proof of lawful installation, see art. 6701d-3.

## TITLE 117—SALARIES

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| <p>Art.<br/>6819a—19a. Judges of district courts in counties of not less than 600,000 nor more than 700,000 [New].</p> <p>6819a—19b. Judges of district and criminal district courts in counties of 1,200,000 or more [New].</p> <p>6819a—25a. Judges of district and criminal district courts in counties of 500,000 or more having 5 or more civil district courts and 2 or more criminal district courts [New].</p> <p>6819a—26. Additional compensation of judges of district and criminal district courts of Tarrant County [New].</p> | <p>Art.<br/>6819a—27. Additional compensation of district court judge of 142nd Judicial District [New].</p> <p>6819a—28. Additional compensation of district court judges of 10th, 56th and 122nd Judicial Districts [New].</p> <p>6819a—29. Additional compensation of district court judge of 49th Judicial District [New].</p> <p>6819a—30. Additional compensation of district court judge of 79th Judicial District [New].</p> |
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## Article 6813. Enumeration

*Salaries of state officers for biennium, see article 6813b.*

Position Classification Act of 1961, see art. 6252—11.

## Art. 6813b. Salaries of state officers for biennium, exceptions

Section 1. The salaries of all state officers and all state employees, except the salaries of the District Judges and other compensation of District Judges, shall be for the period beginning September 1, 1961 and ending August 31, 1963, in such sums or amounts as may be provided for by the Legislature in the General Appropriations Act. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Civil Appeals, the Supreme Court and the Court of Criminal Appeals. It is further provided that in instances where the General Appropriations Act does not specify or regulate the salaries or compensation of a state official or employee, the law specifying or regulating the salary or compensation of such official or employee is not suspended by this Act.

Sec. 2. All laws and parts of laws fixing the salaries of all state officers and employees, saving only the exceptions specified in Section 1 of this Act, are hereby specifically suspended insofar as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals, are suspended insofar as they are in conflict with this Act. Acts 1961, 57th Leg., p. 212, ch. 110.

Emergency. Effective May 10, 1961.

## Art. 6819a—19a. Judges of district courts in counties of not less than 600,000 nor more than 700,000

In any county in this state having a population of not less than six hundred thousand (600,000) nor more than seven hundred thousand (700,000), according to the last preceding Federal Census, the Judg-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

es of the several District Courts of such counties shall receive, in addition to the salary paid by the state to them and to other District Judges of this state, a sum of money, to be approved by the Commissioners Court of said counties, of not less than Four Thousand, Five Hundred Dollars (\$4,500.) nor more than Six Thousand Dollars (\$6,000.) annually, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of such counties. The Commissioners Court may make proper budget provision for the payment thereof. Acts 1961, 57th Leg., p. 39, ch. 25, § 1.

Emergency. Effective March 24, 1961.

Section 2 of the Act of 1961 provided:  
"This Act shall be cumulative of existing

laws; and any laws in conflict herewith are repealed to the extent of such conflict only."

**Art. 6819a—19b. Judges of district and criminal district courts in counties of 1,200,000 or more**

Section 1. (a) In any county in this State having a population of one million, two hundred thousand (1,200,000) or more, according to the last preceding Federal Census, and having twelve (12) or more civil district courts and five (5) or more criminal district courts, the judges of the several district and criminal district courts of such counties shall receive, in addition to the salary paid by the State to them and to other district judges of this State, the sum of Eight Thousand Dollars (\$8,000) annually, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of such counties, such salary to be as compensation for all judicial and administrative services performed by them. The Commissioners Court shall make proper budget provision for the payment thereof. Any district judge of the State who may be assigned to sit for the judge of any district court in such counties under the provisions of Article 200-A, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by district judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located.

(b) In all counties of this State having a population of one million (1,000,000) or more, according to the last preceding Federal Census, and having eight (8) or more civil district courts and three (3) or more criminal district courts, the Commissioners Court of such counties shall fix the salary of the district attorney or criminal district attorney at not less than Fifteen Thousand Dollars (\$15,000) and not more than Eighteen Thousand Dollars (\$18,000) annually. Such salary shall be payable out of the Officers Salary Fund and/or General Fund of said counties in equal monthly installments. Acts 1961, 57th Leg., p. 772, ch. 359.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 6819a—25a. Judges of district and criminal district courts in counties of 500,000 or more having 5 or more civil district courts and 2 or more criminal district courts**

Section 1. In any county in this state having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census and having five (5) or more Civil District Courts and two (2) or more Criminal District Courts, the judges of the several District, Criminal District, Domestic Relations and Juvenile Courts of such

counties shall receive, in addition to the salary paid by the state to them, and to other District Judges of this state, the sum of Six Thousand Dollars (\$6,000.00) annually, to be paid in equal monthly installments out of the General Fund or Officers' Salary Fund of such counties. The Commissioners Court shall make proper budget provisions for the payment thereof. Any District Judge of the state who may be assigned to sit for the Judge of any District Court in such counties under the provisions of Article 200-A, Revised Civil Statutes, may, while so serving, receive an addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources by District Judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located. Acts 1961, 57th Leg., p. 437, ch. 211.

Emergency. Effective May 25, 1961.

Section 2 of the act of 1961 provided:  
"This Act shall be cumulative of existing

laws, and any laws in conflict herewith are repealed to the extent of such conflict only."

**Art. 6819a—26. Additional compensation of judges of district and criminal district courts of Tarrant County**

Section 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Court of Tarrant County, Texas, may pay the sum of Six Thousand Dollars (\$6,000.) per annum, to be paid out of the general fund of said county, in equal monthly installments, to each of the judges of the Civil District Courts and of the Criminal District Courts whose districts are comprised solely of Tarrant County, Texas, respectively, for all services rendered to Tarrant County, Texas, and for performing administrative duties.

Sec. 2. The compensation provided for in Section 1 hereof shall be in addition to all other compensation paid, or authorized to be paid, to the judges of the Civil District Courts and of the Criminal District Courts of Tarrant County, respectively, by the State of Texas, and shall be in lieu of all other compensation for services heretofore allowed to be received by district judges from Tarrant County, Texas.

Sec. 2a. If the Chief Probation Officer of Tarrant County serves as Secretary to the Juvenile Board of Tarrant County, he may receive as compensation for this additional service the sum of One Thousand Dollars (\$1,000.) per year, such amount to be paid in addition to his regular salary.

Sec. 3. Any district judge of the State of Texas who may be assigned to sit for any one (1) of the judges of the Civil District Courts or of the Criminal District Courts of Tarrant County, Texas, under the provisions of Chapter 156, Acts of the 40th Legislature, 1927, as amended, codified as Article 200a, Revised Civil Statutes of Texas, or Chapter 99, Acts of the 51st Legislature, 1949, as amended, codified as Article 6228b, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds, in an amount to be set by the Commissioners Court of said county not to exceed the difference between the pay of such visiting judge from all sources and the pay received from all sources by the district judges in Tarrant County, such amount to be paid by the county upon approval of the presiding judge of the Administrative Judicial District in which said court is located. Acts 1961, 57th Leg., p. 21, ch. 11.

Emergency. Effective Feb. 24, 1961.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 6819a—27. Additional compensation of district court judge of 142nd Judicial District**

Section 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of Midland County is hereby authorized to pay the District Judge of the 142nd Judicial District for services rendered to Midland County and for administrative duties, a reasonable sum not to exceed Three Thousand, Six Hundred Dollars (\$3,600.) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 142nd Judicial District. Acts 1961, 57th Leg., p. 24, ch. 14.

Emergency. Effective March 6, 1961.

**Title of Act:**

An Act authorizing the Commissioners Court of Midland County to pay the District Judge of the 142nd Judicial District

compensation in addition to the compensation paid by the state; making other provisions relative thereto; providing a severability clause; and declaring an emergency. Acts 1961, 57th Leg., p. 24, ch. 14.

**Art. 6819a—28. Additional compensation of district court judges of 10th, 56th and 122nd Judicial Districts**

In addition to the compensation paid by the State of Texas to District Judges, the Commissioners Court of Galveston County shall pay to the District Judges of the 10th Judicial District, the 56th Judicial District and the 122nd Judicial District, respectively, for services rendered to Galveston County for performing administrative duties, the sum of Forty-eight Hundred Dollars (\$4800.00) annually to each of the Judges of said District Courts, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of Galveston County; provided that no District Judge shall receive from any county funds, as supplemental pay to his salary from the state, a sum in excess of Forty-eight Hundred Dollars (\$4800.00) per annum. The Commissioners Court of Galveston County shall make proper budget provisions for the payment thereof. Acts 1961, 57th Leg., p. 69, ch. 41, § 1.

Emergency. Effective April 6, 1961.

**Art. 6819a—29. Additional compensation of district court judge of 49th Judicial District**

Section 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Dimmit County is hereby authorized to pay the District Judge of the 49th Judicial District, for additional services rendered to Dimmit County and for performing additional administrative duties, a reasonable sum not to exceed Twenty-four Hundred Dollars (\$2400) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now paid or authorized to be paid the District Judge of the 49th Judicial District. Acts 1961, 57th Leg., p. 176, ch. 93.

Emergency. Effective May 3, 1961.

**Title of Act:**

An Act authorizing the Commissioners Court of Dimmit County to supplement the salary of the District Judge of the 49th

Judicial District of Texas; making other provisions relating thereto; and declaring an emergency. Acts 1961, 57th Leg., p. 176, ch. 93.

Art. 6819a—30. Additional compensation of district court judge of 79th  
Judicial District

Section 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Courts of Brooks, Duval, Jim Wells and Starr Counties are hereby each authorized respectively to pay to the District Judge of the 79th Judicial District for services rendered to the County, and for performing administrative duties, the sum of One Thousand, Two Hundred Dollars (\$1,200) per annum, to be paid in twelve equal monthly installments.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to district judges and shall be in lieu of all other compensation now paid or authorized to be paid by said counties to the District Judge of the 79th Judicial District. Acts 1961, 57th Leg., 1st C.S., p. 197, ch. 58.

Emergency. Effective Aug. 26, 1961.

Art. 6824. [7086] [4853] Change in salary

*Salaries of state officers for biennium, see article 6813b.*

## TITLE 120—SHERIFFS AND CONSTABLES

## Art. 6877—1. Transportation of sheriffs and deputies; allowance for expenses

The County Commissioners Courts of this State are directed to supply and pay for transportation of sheriffs of their respective counties and their deputies to and from points within this State, under one of the four (4) following Sections:

(a) Such sheriffs and their deputies shall be furnished adequate motor transportation including all expense incidental to the upkeep and operation of such motor vehicles.

(b) Motor vehicles shall be furnished to such sheriffs and their deputies who may furnish gas and oil, wash and grease, incidental to the operation of such vehicles; for which gas and oil, wash and grease, such sheriffs and deputies shall be compensated at a rate not to exceed six cents (6¢) per mile for each mile such vehicle is operated in the performance of the duties of his office.

(c) Alternatively such County Commissioners Courts may allow sheriffs and their deputies in their respective counties to use and operate cars on official business which cars are personally owned by them for which such officers shall be paid not less than eight cents (8¢) per mile nor more than fifteen cents (15¢) per mile for each mile traveled in the performance of official duties of their office.

(d) All compensation paid under the provisions of this Act shall be upon a sworn statement of such sheriff. As amended Acts 1961, 57th Leg., p. 707, ch. 332, § 1.

Emergency. Effective June 16, 1961.

Section 2 of the amendatory Act of 1961 provided: "All laws and parts of laws in conflict herewith are hereby expressly repealed to the extent of such conflict. How-

ever, it is expressly understood that the provisions of this Act shall not disturb Subsection (a) of House Bill No. 501, as the same was enacted by the Fiftieth Legislature, Regular Session, 1947."

## Art. 6889c. Repealed. Acts 1961, 57th Leg., p. 1060, ch. 472, § 2. Eff. June 17, 1961

See, now, art. 6889d.

## Art. 6889d. Transportation or automobile allowance; all counties

Section 1. The County Commissioners Courts of this State are hereby authorized to supply or pay for transportation of constables and deputy constables of the respective counties and justice precincts to and from points within this State, under one of the four following subsections:

(a) Constables and deputy constables may be furnished adequate motor transportation including all expense incidental to the upkeep and operation of such motor vehicles.

(b) Motor vehicles may be furnished to constables and deputy constables who may furnish gas and oil, wash and grease, incidental to the operation of such vehicles; for which gas and oil, wash and grease, such constables and deputy constables may be compensated at a rate not to exceed six cents (6¢) per mile for each mile such vehicle is operated in the performance of the duties of his or their office.

(c) County Commissioners Courts may allow constables and deputy constables in the respective counties and justice precincts to use and operate cars on official business personally owned by them for which such officers may be paid not less than eight cents (8¢) per mile nor more than fifteen cents (15¢) for each mile traveled in the performance of official duties of their office.

(d) All compensation paid under the provisions of this Act shall be upon a sworn statement of such constable or deputy constable. As amended Acts 1961, 57th Leg., p. 1060, ch. 472, § 1.

Emergency. Effective June 17, 1961.

Section 2 of the amendatory Act of 1961,  
repealed art. 6889c.

## TITLE 121—STOCK LAWS

## CHAPTER ONE—MARKS AND BRANDS

Arts. 6898, 6899—1

*Repeal of fee provisions, see art. 3930a, note.*

## CHAPTER FOUR—ESTRAYS

Art. 6927. [7207—8] Notice of estray

*Repeal of fee provisions, see art. 3930a, note.*

## CHAPTER SIX—STOCK RUNNING AT LARGE

Art. 6965. Duty of officers

It shall be the duty of any sheriff or constable of any county, or subdivision thereof, within this State, where the provisions of this Chapter are or may hereafter become operative, to seize any stock which may become known to him to be running at large on any outside premises where the provisions of the stock law are in force, and impound the same in some place provided for that purpose, and immediately notify the owner thereof, if such owner is known to such officer, who may redeem the same on the payment of an impounding fee of One Dollar (\$1) per head, and the following additional fee for each day such stock is so kept: One Dollar (\$1) per day per head for horses, mules, and cattle; fifty cents (50¢) per day per head for jacks and jennets; and twenty-five cents (25¢) per day per head for sheep, goats, and swine; provided that in any county having a population of not less than twenty-one thousand, nine hundred (21,900) nor more than twenty-two thousand, two hundred and sixty (22,260), according to the last preceding Federal Census, the additional fee shall not exceed Five Dollars (\$5) per day per head for swine. As amended Acts 1961, 57th Leg., p. 278, ch. 152, § 1.

Emergency. Effective May 15, 1961.

Section 2 of the act of 1961 amended pending as of the effective date of this art. 6967. Section 3 of the act provided: Act."

Art. 6967. [7251] Fees for impounding

Any owner, lessee or person in lawful possession of inclosed lands shall be entitled to the following fees for impounding stock, to wit: fifty cents (50¢) per day per head for horses and mules; thirty-five cents (35¢) per day per head for cattle; thirty cents (30¢) per day per head for jacks and jennets; twenty-five cents (25¢) per day per head for swine; and fifteen cents (15¢) per day per head for sheep and goats; provided that in any county having a population of not less than twenty-one thousand, nine hundred (21,900) nor more than twenty-two thousand, two hundred and sixty (22,260), according to the last preceding Federal Census, the additional impounding fee shall not exceed Five Dollars (\$5) per day per head for swine. The damages done by such stock, if any, and the fees due to the taker-up of such stock, if any, may be assessed by any

three (3) disinterested freeholders of the subdivision in which said stock is taken up, who shall, upon the application of the taker-up of the stock, be appointed by the justice of the peace of the precinct in which such subdivision is situated. When such justice shall fail or refuse to make appointments, or when the stock law has been adopted by an entire county, said freeholders shall be appointed by the county judge of the county. Said freeholders, after being duly sworn to discharge with impartiality the duties devolving upon them by said appointment, shall proceed after hearing the evidence to determine whether or not any trespass prohibited by the provisions of this Chapter has been committed, and to ascertain the damages, if any, occasioned thereby, and the fees due the taker-up of the stock by reason of said trespass, and shall make an assessment of damages and fees in writing and signed by said freeholders, or two (2) of them, and verified by the affidavit of said freeholders to the effect that said assessment is just and that they have no bias in favor of or prejudice against any party interested therein, and shall file said assessment with the justice of the peace, which shall be final; provided, that the owner of the stock, if known, shall have five (5) days notice of the time and place of the meeting of said freeholders, and if the owner is unknown, then a written notice thereof shall be posted in two (2) public places in said subdivision and one (1) at the courthouse door of the county. As amended Acts 1961, 57th Leg., p. 278, ch. 152, § 2.

Emergency. Effective May 15, 1961.

Section 1 of the act of 1961 amended art. 6965. Section 3 made the act inapplicable to litigation pending as of the effective date of the act. See art. 6965, note.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

## TITLE 122—TAXATION

### CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

#### Art. 7057b. Payment of license or privilege taxes under protest

Payment of additional taxes under protest after filing suit; amendment of petition; jurisdictional amount

Sec. 2a. After such suit is filed in a court of competent jurisdiction in Travis County, and before such suit is tried by said court, said taxpayer pays additional taxes under protest, the grounds of protest being the same as in the original petition filed in said court, and the total of said taxes exceeds the jurisdiction of said court, then the taxpayer will be authorized to file suit within ninety (90) days after the payment of such additional taxes in a court in Travis County which has jurisdiction of the total amount of said taxes paid under protest, and when such suit is filed it shall be deemed to have been filed in conformity with the provisions of this Act. After any original petition has been filed in any court of competent jurisdiction seeking a refund of any taxes paid under protest it will not be necessary to amend such original petition to include further payments made under protest until five (5) days before such suit is ready for trial, on or before which time such petition shall be amended so as to include all payments made under protest after the filing of the original petition. This provision shall not be construed as dispensing with the necessity of paying said taxes as they become due and accompanying such payment with the written grounds of protest. Provided further, that if an appeal is taken from the final judgment rendered in such suit, the taxpayer will not be relieved of the duty of continuing paying said taxes under protest pending the appeal of said case; however, it will not be necessary for such taxpayer to file suit within ninety (90) days after the payment of such taxes, but the disposition of such taxes shall be governed by the outcome of the original suit. As amended Acts 1961, 57th Leg., p. 438, ch. 212, § 1.

Emergency. Effective May 25, 1961.

### CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art.  
7083a.2 Allocations and payments to teacher retirement system; annual estimates; adjustments; actuarial report; matching contributions [New].

#### Art. 7083. Penalties

Foundation school program, financing.  
see art. 2922—16.

Art. 7083a. Allocation of revenue derived from certain occupations and gross receipts taxes; appropriations and allocations for certain funds; construction of farm to market roads

Sec. 2.

(1) There shall be allocated, transferred and credited to the Special Fund in the Treasury known as the 'Blind Assistance Fund' for the purpose of providing assistance to the blind in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, Forty-sixth Legislature, 1939, and any amendments thereto, the sum of One Million, Four Hundred Thousand Dollars (\$1,400,000) for the fiscal year beginning September 1, 1961, and for each fiscal year thereafter, said amount to be provided for on a basis of equal monthly payments payable on the first day of each calendar month. As amended Acts 1961, 57th Leg., p. 391, ch. 197, § 1.

Emergency. Effective May 23, 1961.

(3A) Regardless of the foregoing and all other provisions of Section 2, Article XX of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941 (compiled as Article 7083a, Vernon's Civil Statutes), as amended, all allocations provided for the Teacher Retirement System for the years beginning September 1, 1961, and September 1, 1962, shall be transferred by the State Comptroller to the General Revenue Fund, and the appropriations for the State's matching funds for member contributions made in these two (2) years to the Teacher Retirement System shall be and are hereby made from the General Revenue Fund as follows:

(a) A sum equivalent to the contributions of the members of the Teacher Retirement System during the fiscal year beginning September 1, 1961, is hereby appropriated and shall be paid from the General Revenue Fund to the Teacher Retirement System, such payment to be made during the month of September, 1962.

(b) A sum equivalent to the contributions of the members of the Teacher Retirement System during the fiscal year beginning September 1, 1962, is hereby appropriated and shall be paid from the General Revenue Fund, such payment to be made during the month of August, 1963.

This Subsection shall be effective only for and during the fiscal years beginning September 1, 1961, and September 1, 1962. Added Acts 1961, 57th Leg., 2nd C.S., p. 514, ch. 3, § 1.

Effective 90 days after Aug. 14, 1961, date of adjournment.

*Allocations and payments to teacher retirement system after September 1, 1963, see art. 7083a.2.*

(4) After the above allocations and payments have been made from such "Clearance Fund" there shall be allocated, transferred and credited to the Special Fund in the Treasury known as the "Old Age Assistance Fund" for the purpose of providing assistance to the needy aged in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, Forty-sixth Legislature, 1939, and any amendments thereto, such sum as is required, when taken together with any other funds received from any other sources by reason of other State Laws still in effect, which will total Forty-one Million, Seven Hundred Thousand Dollars (\$41,700,000) for the fiscal year beginning September 1, 1961, and for each fiscal year thereafter, said allocation to be provided in monthly installments, one installment being payable on the first day of each calendar month.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

If, on the first day of any calendar month, the amount on that day transferred from the "Clearance Fund" to the "Blind Assistance Fund," the "Children's Assistance Fund," and the "Old Age Assistance Fund" is not sufficient to provide the allocation from State Funds as herein provided for that month, then in that event, there shall be deposited to the credit of the "Blind Assistance Fund," the "Children's Assistance Fund," or the "Old Age Assistance Fund" from the first revenues collected after the first day of the month, which would otherwise go into the General Revenue Fund, such sum, as with the balance on hand in the Fund plus the payment from the "Clearance Fund" will make available in the various Funds the total amount of State Funds for that month as is herein provided.

The allocations shall be and are in lieu of all other State allocations for aid to the blind, aid to dependent children, and old age assistance, and such allocations and appropriations shall not include any funds received from the Federal Government.

None of the money herein allocated for old age assistance payments, aid to the blind payments, or aid on behalf of needy children shall be used for the purpose of paying assistance to any person who disposes of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of the assistance payment. As amended Acts 1961, 57th Leg., p. 391, ch. 197, § 1.

Emergency. Effective May 23, 1961.

(5) All other revenue or money of any kind or character remaining in such Clearance Fund shall be paid into the General Revenue Fund of the State of Texas, and any money or revenue in excess of current biennial appropriations remaining in the special funds to which allocations are made from the Clearance Fund after the fifth working day of each month shall be transferred to the General Revenue Fund. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. V, § 2.

Emergency. Effective Aug. 31, 1961.

(7) There shall be allocated, transferred, and credited to the special fund in the Treasury known as the "Medical Assistance Fund" for the purpose of providing medical services and/or hospital services on behalf of recipients of public assistance in the manner as authorized by law or as hereafter may be authorized by law, an amount out of state funds for each fiscal year which will provide funds in amounts equivalent to the funds appropriated by the Legislature for such purposes; and such allocations to the "Medical Assistance Fund" shall represent and constitute the fifth priority claim on the amount in the "Clearance Fund," after the Constitutional allocation is made to the Available School Fund, in accordance with the priorities as established in the law as it now exists or as it may hereafter be amended. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XX, § 2, sub. 7 added Acts 1961, 57th Leg., p. 858, ch. 380, § 9.

Effective 90 days after May 29, 1961, date of adjournment.

Section 2 of the amendatory Act of 1961, ch. 197, provided: "This Act shall become operative September 1, 1961."

Sections 1-8, 10 of the amendatory Act of 1961, ch. 380, enacted art. 695j, relating to medical assistance to recipients of public assistance.

Teacher retirement system, allocations and payments, see art. 7083A.2.

Art. 7083a.2 Allocation and payments to teacher retirement system; annual estimates; adjustments; actuarial report; matching contributions

Sec. 1. [Inserted as subsection (3A) in art. 7083a § 2]

Sec. 2. [Effective date provision]

Sec. 3. The provisions of Section 1 of this Act<sup>1</sup> shall have no force and effect after August 31, 1963. From and after September 1, 1963, all moneys allocated pursuant to the provisions of House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended, and appropriated by the State to the Teacher Retirement System shall be paid to the Teacher Retirement System in equal monthly installments based on the annual estimate by the State Board of Trustees of the Teacher Retirement System of the contributions to be received from the members of said System during the year; provided further, in the event said estimate of the contributions of the members of the System shall vary from the actual amount of the teachers' contributions during the year, then such adjustments shall be made at the close of each fiscal year as may be required.

Sec. 4. On or before December 31, 1962, an actuarial report on the Teacher Retirement Fund by a certified actuary shall be filed with the State Comptroller, and if upon this report the Comptroller finds the fund to be actuarially sound, then all future estimates thereafter and all allocations, appropriations, adjustments, and payments to the Teacher Retirement System shall be based on the aggregate yearly contributions of members, less the aggregate yearly withdrawals of member contributions. Acts 1961, 57th Leg., 2nd C.S., p. 514, ch. 3.

<sup>1</sup> Article 7083a, § 2(3A).

Effective 90 days after Aug. 14, 1961, date of adjournment.

## CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art. 7150. [7507], [5065] Exemption from taxation

7. Public charities. All buildings and personal property belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions not leased or otherwise used with a view to profit, unless such rents and profits and all moneys and credits are appropriated by such institutions solely to sustain such institutions and for the benefit of the sick and disabled members and their families and the burial of the same, or for the maintenance of persons when unable to provide for themselves, whether such persons are members of such institutions or not. An institution of purely public charity under this article is one which dispenses its aid to its members and others in sickness or distress, or at death, without regard to poverty or riches of the recipient, also when the funds, property and assets of such institutions are placed and bound by its law to relieve, aid and administer in any way to the relief of its members when in want, sickness and distress, and provide homes for its helpless and dependent members and to educate and maintain the orphans of its deceased members or other persons. As amended Acts 1961, 57th Leg., p. 1087, ch. 487, § 1.

Effective 90 days after May 29, 1961 date of adjournment.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 7150b. Exemption of property owned by church for minister's residence**

There is hereby exempted from taxation any property owned exclusively and in fee by a church for the exclusive use as a dwelling place for the ministry of such church, and which property yields no revenue whatever to such church; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; and provided further, that the fact that the ministry uses a portion of the dwelling as their study, library or office shall not prevent the property from being considered as being used exclusively as a dwelling place. For purposes of this Act, "church" includes a strictly religious society; and "ministry of such church" means these persons whose principal occupation is that of serving in the clergy, ministry, priesthood or presbytery of an organized church or religion, whether they are assigned to a local church parish, synagogue, cathedral or temple or to some larger unit of the church organization and whether they perform administrative functions or not. As amended Acts 1961, 57th Leg., p. 898, ch. 396, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**CHAPTER EIGHT—COLLECTION AND COLLECTOR**

**Art. 7260. [7618] [5167] [4742] Monthly reports**

8. The Tax Collector shall be entitled to deduct amounts of double payments and homestead exemptions claimed, if paid in error in prior months of the current tax year, from the amounts of taxes due the State of Texas; and same shall be by him refunded to claimants; and the State Comptroller shall honor such deductions the same as if made in the month in which the payment was actually made, so long as such deductions are made prior to June 30th of the year when current taxpaying ends. Added Acts 1961, 57th Leg., p. 27, ch. 17, § 1.

Emergency. Effective March 6, 1961.

Section 2 of the Act of 1961 provided: far as they conflict with remittances of "This law is to be cumulative with all other provisions of Article 7260, except insofar as these particular collections to the State, and the approval by the Comptroller."

**CHAPTER TEN—DELINQUENT TAXES**

**Art. 7328. [7689] Proceedings in tax suits**

*Repeal of fee provisions, see art. 3930a, note.*

**Art. 7332. [7690] Other Fees**

The County or District Attorney shall represent the state and county in all suits against delinquent taxpayers, and all sums collected shall be paid over immediately to the County Collector.

Before filing suits for recovery of delinquent taxes for any year, notice shall be given to the owner or owners of said property as is provided for in Article 7324 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 117, page 196, Acts of the 42nd Legislature, Regular Session. The fees herein provided for shall not accrue to nor shall the various officers herein named be entitled thereto in any suit unless

it be proved that notice has been given to the owner for the time and in the manner provided by law.

In all cases, the compensation of said attorney shall be such reasonable attorneys fees as may be incurred not exceeding ten percent (10%) of the amount sued for. And provided, that in any suit brought against any individual or corporate owner, all past due taxes for all previous years on such tract or tracts shall be included; and provided further, that where there are several lots in the same addition or subdivision delinquent, belonging to the same owner, all said delinquent lots shall be made the subject of a single suit.

All fees provided for the officers herein shall be treated as fees of office and accounted for as such, and said officers shall not receive nor retain said fees in excess of the maximum compensation allowed said officers under the laws of this state; and provided further, that the County Attorney, Criminal District Attorney or District Attorney shall not be entitled to the fees herein provided for in instances where such delinquent taxes are collected under contracts between the Commissioners Court and others for the collection of such taxes, and in such instances the fees herein provided for such officers shall not be assessed nor collected.

The sheriff or constable of the county in which the suit is pending shall receive such fees as are now allowed by law in other civil cases which will cover the service of all process, and the selling of the property and executing deeds for same. If, in any such suit, process is issued to be served in counties other than the one in which suit is pending, the sheriff or constable serving same shall receive a fee of Two Dollars and Fifty Cents (\$2.50) in each suit for his services.

The District Clerk shall receive for his services the same scale of fees as allowed by law in other civil cases.

The County Clerk shall receive One Dollar (\$1.00) in full for his services in each case.

Provided that the fees herein provided for in connection with delinquent tax suits shall constitute the only fees that shall be charged by said officers for preparing, filing, instituting, and prosecuting suits on delinquent taxes and securing collection thereof, and all laws in conflict herewith are hereby repealed.

In case the delinquent taxpayer shall pay to the collector the amount of delinquent taxes for which he is liable, together with accrued interest after the filing of suit before judgment is taken against him in the case, then only one-half of the fees taxable in such a case, as provided for herein, shall be charged against him.

In suits by counties against any of the officers herein named to recover moneys or fees collected by any such officers, limitation of action shall not apply, and no such suit shall be barred by the Statute of Limitation. As amended Acts 1961, 57th Leg., p. 888, ch. 390, § 1.

Effective 90 days after May 29, 1961 date of adjournment.

Section 2 of the 1961 amendatory Act provided that this Act does not apply to litigation pending as of the effective date of this Act.

**TITLE 122A—TAXATION—GENERAL**

**CHAPTER 1—GENERAL PROVISIONS**

<p>Art. 1.07A. Recording State Tax Liens [New]. 1.07B. Lien of State Tax Lien [New].</p>	<p>Art. 1.12. False Reports and Returns—Abolition of Oaths [New]. 1.13. Acceptance of Postmark [New].</p>
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**Art. 1.07 Lien and Recording; Failure to Withhold Taxes; Penalties; Fines, etc., Cumulative**

(1) All taxes, fines, penalties and interest due by an individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee or receiver to the State of Texas, by virtue of this Title, shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, subject, however, to the modification hereinafter contained, upon all the property of any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver. This lien shall be cumulative, and in addition to the liens for taxes, fines, penalties, and interest now provided by law, and shall attach as of the date such tax or taxes are due and payable. Provided, however, before the taxes provided for in this law shall become a lien on real estate, notice thereof must be filed in the county where the real estate is located on which the lien is desired as provided in Article 1.07A of this Act. Such lien shall not be valid or effective as against any mortgagee, holder of a deed of trust, purchaser, pledgee, or judgment creditor acquiring title, lien or other right or interest before such notice has been so filed and recorded.

(2) Any person, firm, corporation, or association of persons purchasing any natural resources upon which a tax is levied by this Title who fails to deduct and withhold the proper amount of taxes which are due and unpaid under any provision of this Title, shall be liable to the State for the full amount of such taxes plus any accrued penalties and interest thereon.

(3) All penalties, fines, forfeitures or penal offenses provided in this Title as to the same offense, shall be cumulative of one another and of any other fines, penalties, forfeitures, or penal offenses provided by any other law of this State applicable to such offense. Should any such fines, penalties, forfeitures, or penal offenses be in conflict so that such could not be cumulative as above provided, then that law or part of the law containing the provision for the highest penalty in dollars shall be effective and apply as to each such offense, and that law or part of the law containing the provision for the highest fine in dollars (where a fine alone is provided for) shall be effective and apply to each such offense, and in case of forfeiture that law or part of the law containing a provision for the most onerous forfeiture shall be effective and apply to each such offense, and in case of penal offenses containing a provision providing for imprisonment, that law or part of the law containing the provision for the longest maximum imprisonment shall be effective and apply to each such offense; and in each such instance, the lesser fine, penalty, forfeiture, penal offense or

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punishment shall be suspended. As amended Acts 1961, 57th Leg., p. 201, ch. 104, § 1.

Emergency. Effective May 5, 1961.

Section 4 of the amendatory Act of 1961 read as follows: "All laws and parts of laws in conflict with the provisions of this Act are hereby repealed; and, in case

of such conflict, the provisions of this Act shall control and be effective. This Act shall have no application to litigation pending in any court of competent jurisdiction in this State."

**Art. 1.07A Recording State Tax Liens**

Every county clerk shall, at the expense of the county, provide a suitable well-bound book, to be called 'State Tax Liens,' upon which, on the filing of tax claims under the provisions of this Act, such clerk shall enter the name of such person, firm, corporation, association, joint stock company, syndicate, copartnership, agency, trustee, or receiver against whom the State has assessed such tax to be due, the date of assessment and the amount alleged to be due, noting therein the date and hour of such record. He shall at the same time enter it upon the alphabetical index to such state tax lien, showing the name of each person, firm, corporation, association, joint stock company, syndicate, copartnership, agency, trustee, or receiver liable for such tax and the number of the page of the book upon which the state tax lien is recorded. He shall leave a space at the foot of each such state tax lien for the entry of credits upon and satisfaction of such state tax lien, and shall enter the same when properly shown. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.07A added Acts 1961, 57th Leg., p. 201, ch. 104, § 2.

Emergency. Effective May 6, 1961.

**Art. 1.07B Lien of State Tax Lien**

When any state tax lien has been so recorded and indexed, it shall, from the date of such record and index, operate as a lien upon all of the real estate of the person, firm, corporation, association, joint stock company, syndicate, copartnership, agency, trustee, or receiver situated in the county where such record and index are made, and upon all real estate which such person, firm, corporation, association, joint stock company, syndicate, copartnership, agency, trustee, or receiver may thereafter acquire, situated in said county. Satisfaction of any state tax lien may be shown by a receipt, acknowledgment or release signed by a representative of the State agency that filed such lien, and acknowledged or proved for record as required for deeds. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.07B added Acts 1961, 57th Leg., p. 201, ch. 104, § 3.

Emergency. Effective May 5, 1961.

**Art. 1.12. False Reports and Returns—Abolition of Oaths**

Any person who willfully makes or subscribes any report, return or claim required or permitted to be filed with the Comptroller by the provisions of this Title 122A, knowing that such report, return or claim is false or untrue in any material fact; or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of any such report, return or claim which is fraudulent, false or incorrect as to any material matter knowing same to be false; or who knowingly and willfully simulates or falsely or fraudulently executes or signs any such report, return or claim; or who knowingly and willfully procures the same to be falsely or fraudulently executed, or advises, aids in, or convives at such execution thereof shall be guilty of a felony and, upon conviction, shall be punished by imprisonment in the state penitentiary

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for not less than two (2) years nor more than five (5) years or by a fine of not more than One Thousand Dollars (\$1,000.) or by both such fine and imprisonment.

Provided that if any penalties prescribed elsewhere in this Title overlap as to offenses which are also punishable under this Article, then the penalties prescribed by this Article shall apply and control all other penalties.

Provided further, that from and after the effective date of this Act no report, return, declaration, claim for refund or other document required or permitted to be filed with the Comptroller under this Title 122A, shall be required to be under oath, verification, acknowledgment or affirmation. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.12 added Acts 1961, 57th Leg., p. 178, ch. 95, § 1.

Emergency. Effective April 27, 1961.

#### Art. 1.13. Acceptance of Postmark

Any payment, report, annual report, return, declaration, statement, or other document required by any provision of this Title which requires such payment, report, annual report, return, declaration, statement, or other document to be filed or made on or before a specific date, shall be deemed sufficiently complied with if said payment, report, annual report, return, declaration, statement, or document shall bear a postmark which is dated on or before the date required for such payment, report, annual report, return, declaration, statement, or document to be filed or made. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.13 added Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 1.

Emergency. Effective Sept. 1, 1961.

### CHAPTER 3—TAX ON PRODUCERS OF NATURAL GAS

Art.

3.11 Dedicated Reserve Tax [New].

#### Art. 3.01 Calculation of Tax

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

#### Art. 3.03 Records and Payment

(1) The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of each such producer to keep accurate records in Texas of all gas produced, making monthly reports as hereinafter provided. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 3.

Emergency. Effective Sept. 1, 1961.

(3) The tax herein levied shall be due and payable at the office of the Comptroller at Austin on the last day of the calendar month, based on the amount of gas produced and saved during the preceding calendar month, and on or before said date each such producer shall make and deliver to the Comptroller a report on forms prescribed by the Comptroller showing the gross amount of gas produced, less the exclusions and at the pressure base set out herein, upon which the tax herein levied accrues, together with details as to amounts of gas, from what leases said gas was produced, the correct name and address of the first purchaser of said

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gas, and such other information as the Comptroller may desire; such report to be accompanied by legal tender or cashier's check payable to the State Treasurer for the proper amount of taxes herein levied. In no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in the event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such a purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment and shall be entitled to reasonable attorney's fees and court costs incurred by legal action. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 3.

Emergency. Effective Sept. 1, 1961.

(4) Provided, that unless such payment of tax on all gas produced during any month or fractional part thereof shall be made on or before the date due as hereinabove specified, such payment shall become delinquent and a penalty of five per cent (5%) of the amount of the tax shall be added, and after the first thirty (30) days shall be forfeited an additional five per cent (5%) of such tax; said penalty shall never be less than One Dollar (\$1). Delinquent taxes shall bear interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 3.

Emergency. Effective Sept. 1, 1961.

**Art. 3.08 Penalty for Violation; Lien; Suits**

Any person, firm, association or corporation shall be subject to a penalty of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) for failure or omission to keep the records required herein, or for the violation of any of the other provisions hereof, and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties and interests on all property and equipment used by the producer of gas in his business of producing gas, and if any producer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the producer of gas shall be liable, as additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in the General Revenue Fund of the State. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County. As amended Acts 1961, 57th Leg., p. 253, ch. 129, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

*Section 2 of the amendatory act of 1961 provided: "Sec. 2. The Natural and Casinghead Gas Audit Fund, No. 73, is hereby abolished and all cash assets remaining in that Fund on the effective date of this Act shall be transferred to the General Revenue Fund of the State within thirty (30) days of the effective date of this Act."*



## Art. 3.11. Dedicated Reserve Tax

## (1) Declaration of Policy.

It is the policy of this State to obtain, as near as may be consistent with a fair and equitable tax policy, a tax return to the State of not less than one cent (1¢) per MCF on each MCF of natural gas produced and saved from the earth and waters of this State. The same is deemed necessary:

- I. to derive a reasonable State revenue from the trillions of cubic feet of gas removed from the earth and waters of the State each year, and
- II. to tax equitably all of those persons integrally engaged in the occupation of removing such gas, so that one associated group of them will not derive a windfall by virtue of a very small tax burden on each thousand cubic feet of gas produced by such others.

It is further the policy of this State, in order to promote conservation and to distribute equitably the burden of natural resources taxation, to recognize and clarify fully by statute the relation between various persons engaged in the occupation of producing natural gas so that the taxpayer in each instance may be identified clearly, and so that all persons so engaged in the occupation of production will bear equitably the taxes imposed in connection with the severance of gas from Texas soil.

Pursuant to this policy it is recognized that contractual<sup>1</sup> relations exist in such natural gas production occupation between several definable groups, all engaged integrally in such occupation of severance of natural gas from the soil and all having such a direct and beneficial interest in the production of gas that for the purpose of taxation they may be classified as producers of gas. It is the policy of the State of Texas to recognize that all such persons, integrally engaged in the occupation of severance of natural gas from the soil—producers, severance producers and dedicated reserve producers, have a taxable interest in production of gas in Texas.

## (2) Definitions.

The definitions contained in Article 3.04, insofar as applicable, shall govern the meanings of the terms used in this Article. In addition, the following definitions are specifically applicable to this Article:

- (a) "Severance producer" means any person owning, controlling, managing or leasing any gas well and/or any person who produces in any manner any gas by taking it from the earth or waters of this State, and shall include any person owning any royalty or other interest in gas or its value, whether produced by him, or by some other person in his behalf, either by lease or contract or otherwise, when such person producing gas is in contractual<sup>2</sup> relation with the dedicated reserve producer (either directly, or, if a royalty or other holder of an interest in gas in place and thereby entitled to a fractional share of the value of such gas in place, indirectly through the producer).
- (b) "Dedicated reserve producer" means any person holding a written contract for a designated term specified therein which confers upon such person the right to take title to gas from particular lands, leases and reservoirs in this State and imposes upon a severance producer the duty to supply all or a designated quantity or portion of gas produced by that sever-

ance producer (or by that severance producer in conjunction with other severance producers) to the dedicated reserve producer at a fixed or determinable price.

(c) "Severance beneficiary" has the following meaning:

- I. In the case where there is in effect a dedicated reserve contract as to the gas in question, the term "severance beneficiary" refers to the dedicated reserve producer.
- II. In the case where there is no dedicated reserve contract in effect as to the gas in question, the term "severance beneficiary" refers to the producer.

(d) "Dedicated reserve contract" means any written contract for a designated term specified therein which confers upon a dedicated reserve producer the right to take title to gas from particular lands, leases and reservoirs in this State, and imposes upon a severance producer the duty to supply all or a designated quantity or portion of gas produced by that severance producer (or by that severance producer in conjunction with others) to the dedicated reserve producer at a fixed or determinable price.

(e) I. Meaning of Residue Gas.

A. As to gas from which liquefiable hydrocarbons are removed, "residue gas" means that constituent part of the whole quantity of gas removed from the earth and waters of this State which eventually constitutes the residue. The tax is applicable under the terms of this Article to such constituent part of the whole quantity of gas at the time when it, along with the associated gasoline or other liquefiable hydrocarbons, is actually severed from the earth and waters of this State.

B. As to gas from which liquefiable hydrocarbons are not removed, "residue gas" means the entire quantity except that gas which is:

- (i) injected into the earth, unless sold for such purpose;
- (ii) produced from oil wells with oil and lawfully vented or flared; or
- (iii) used for lifting oil, unless sold for such purpose.

II. How measured. Such residue gas shall be measured by determining that portion of gas containing gasoline or other liquefiable hydrocarbons (that are to be removed or extracted at a plant by scrubbing, absorption, compression, or any other process) which is left after the application of such process and which flows through the outlet of such plant. In the event that such gas is processed in more than one such plant, the residue gas content shall be measured as that portion of the gas which flows through the outlet of the first plant.

As to that gas which passes through a separator and which is not processed in a plant to remove or extract the gasoline or other liquefiable hydrocarbons, the residue gas content shall be measured as that portion of the gas remaining after its passage through such separator. In the event that such gas passes through more than one separator, the residue gas content shall be measured as that gas remaining after the passage through the first separator.

For Annotations and Historical Notes, see V. T. A. S.

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As to that gas which passes through a drip or trap and which does not pass through a separator and which is not processed in a plant to remove or extract gasoline or other liquefiable hydrocarbons, the residue gas content shall be measured as that portion of the gas remaining after passage through such drip or trap. In the event that such gas passes through more than one drip or trap, then the residue gas content shall be measured as that portion of the gas remaining after its passage through the last drip or trap.

As to that gas which passes through a meter and which does not pass through a drip or trap and which does not pass through a separator and which is not processed in a plant to remove or extract the gasoline or other liquefiable hydrocarbons, the residue gas content shall be measured as that portion of the gas remaining after it passes through such meter. In the event that such gas passes through more than one meter, then the residue gas content shall be measured as that gas which passes through the first meter.

(f) "MCF" means thousand cubic feet.

(3) The Tax Herein Levied.

(a) There is hereby levied, in addition to all other occupation taxes on the occupation of producing gas in Texas, an occupation tax on the business or occupation of producing gas within this State as a severance beneficiary at the rate of one cent (1¢) per thousand cubic feet of residue gas produced, applicable at the time the said gas is severed from the earth or waters of this State, less the amount of tax paid per MCF under the provisions of Article 3.01 of this Chapter, computed in the following manner:

In the case of all gas subject to the tax imposed by Article 3.01 there shall be ascertained the amount of tax in cents and fractions of a cent per thousand cubic feet paid to the State with respect to each quantity of such gas by virtue of the seven per cent (7%) of value tax provided in that Article. If such amount is less than one cent (1¢) per MCF, then there shall be determined the difference between such amount and one cent (1¢) per MCF. Such amount multiplied by the quantity of the residue gas in question shall constitute the tax obligation of the severance beneficiary of such residue gas.

(b) The above is subject to the following exceptions:

(1) Without regard to any other provision of this Chapter, no producer producing natural gas from a newly discovered field shall be required to pay more than the seven per cent (7%) of the market value of gas therefrom produced until establishment of the first field rules for such field by the Railroad Commission or until the passage of six (6) months from the date of the first discovery of natural gas in such field, whichever time shall be the shorter.

(2) Without regard to any other provision of this Chapter, no producer or royalty owner of natural gas shall be required to pay more than the obligation provided under Article 3.01 of this Chapter unless he is also the severance bene-

ficiary by virtue of selling such gas without a dedicated reserve contract.

- (3) Without regard to any other provision of this Chapter no person or persons operating one or more gasoline plants, shall, in respect to the residue gas after processing in said plants, be liable for any tax hereunder.

(4) Collection of Tax.

- (a) The tax hereby levied shall be a liability of the severance beneficiary. It shall be his duty to keep accurate records of all gas produced and all matters reasonably necessary or pertinent, as determined by the Comptroller, for the calculation and collection of the tax. The severance beneficiary shall remit the tax additionally levied by this Article. The tax levied herein shall be due and payable at the office of the Comptroller of Public Accounts at Austin on the last day of the calendar month based on the amount of gas produced during the preceding calendar month. Each person liable for the tax imposed herein shall make and deliver to the Comptroller a verified report on forms furnished by the Comptroller showing such information as the Comptroller may deem necessary for the administration and enforcement of this Article. Such report shall be accompanied by legal tender or cashier's check payable to the State Treasurer for the proper amount of taxes herein levied.
- (b) The Comptroller shall employ auditors and/or other technical assistants for the purpose of verifying reports and investigating the affairs of producers, including severance producers and dedicated reserve producers, to determine whether the tax is being properly reported and paid. He or they shall have the power to enter on the premises of any taxpayer liable for a tax under this Act and any other premises necessary in determining the correct tax liability, and to examine any books or records and to secure any information directly or indirectly concerned, according to law, and to promulgate rules pertinent to the enforcement of this Article which rules shall have the effect of law. Before any division or allotment of the tax collected hereunder is made, five-tenths per cent (.5%) of the gross amount of that tax shall be set aside in the State Treasury for the use of the Comptroller in the administration and enforcement of this Article; and so much of the said proceeds of a five-tenths per cent (.5%) of the occupation tax paid monthly as may be needed in such administration and enforcement is hereby set aside for such purposes, subject to appropriation by the Legislature.
- (c) In the event that any taxpayer liable for a tax under this Act shall not file a report, the Attorney General shall have the right to enjoin such person until the delinquent tax is paid or said reports are filed, and venue is hereby fixed in Travis County.
- (d) All persons having an obligation imposed by this Article shall be subject to a penalty of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) for violation hereof, each day's violation constituting a separate offense. The State shall have a prior lien for all delinquent taxes, penalties and interest on all property used by them or in

their business of producing or purchasing gas, and if any of them shall fail to remit the proper taxes, penalties and/or interest due, the Comptroller may employ personnel to ascertain the correct amount due, and the person violating any of the provisions of this Article shall be liable, as additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due for the enforcement of all liens under this Article.

- (e) The provisions of Article 3.09 of this Chapter shall also be applicable to the enforcement of the provisions of this Article, and where the terms "producer" or "purchaser" are used in that Article, they shall be construed to be broad enough to include "severance producer" and "dedicated reserve producer," as the case may be.

(5) Allocation of Revenue.

- (a) The revenue derived under the provisions of this Article shall be allocated in the following manner:

I. Five-tenths per cent (.5%) for administration and enforcement as hereinabove provided;

II. One-fourth ( $\frac{1}{4}$ ) of the net revenue shall be allocated to the Available School Fund;

III. The remaining three-fourths ( $\frac{3}{4}$ ) shall be deposited in the Omnibus Tax Clearance Fund and shall be set aside for the purpose of transfer and allocation from the Omnibus Tax Clearance Fund to the Medical Assistance Fund as provided by Section 2 of Article XX of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended, it being specifically provided that no portion of the revenues deposited to the Omnibus Clearance Fund by virtue of this Act shall be distributed or allocated to any other fund under the provisions governing the Omnibus Clearance Fund unless the needs of the Medical Assistance Fund have been met fully.

- (b) "Revenue derived under the provisions of this Act" as used in this Section means such revenue as may be added by virtue of the provisions of this Article 3.11 to that revenue which would otherwise be obtained under other provisions of law.

(6) In case two (2) or more persons pay under protest challenging the constitutionality of any portion of this Article, the Attorney General shall, within thirty (30) days after the filing of the second protest, institute a suit for declaratory judgment in the District Court of Travis County, Texas. In order to expedite the decision in such case or cases, and also in suits filed by taxpayers under Article 1.05, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, any such cases involving the constitutionality of any portion of this Act shall be advanced to the top of the docket of any District or Appellate Court in which the cases might be filed or appealed.

(7) The provisions of this Article are hereby declared to be nonseverable; and if this Article or any portion thereof is declared invalid by a final judgment of a court of competent jurisdiction as to any severance beneficiary, it shall be invalid from the beginning as to the pro-

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ducer and all other severance beneficiaries. The provisions of this Article shall prevail over the provisions of the general severability clause at the end of this Act. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 3.11 added Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VI, § 1.

<sup>1</sup> So in enrolled bill.

<sup>2</sup> So in enrolled bill.

Emergency. Effective Sept. 1, 1961.

**CHAPTER 4—OCCUPATION TAX ON OIL PRODUCED****Art. 4.02 Amount and Computation of Tax**

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

**Art. 4.03 Primary Liability; Mode of Payment; Refunds, Penalties**

(7) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports as hereinafter provided. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 4.

Emergency. Effective Sept. 1, 1961.

(10) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of five per cent (5%) of the amount of the tax shall be added, and after the first thirty (30) days shall be forfeited an additional five per cent (5%) of such tax; said penalty shall never be less than One Dollar (\$1). Delinquent taxes shall bear interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 4.

Emergency. Effective Sept. 1, 1961.

**Art. 4.06. Reports to Comptroller**

**Payment of Tax.** At the time of filing the reports herein required, the first purchaser shall pay to the Comptroller by legal tender or cashier's check, payable to the State Treasurer, the tax herein required to be paid. Failure to pay said tax on the twenty-fifth day of the month immediately following shall cause said tax to become delinquent and a penalty of five per cent (5%) of the amount of said tax shall be added, and after the first thirty (30) days shall be forfeited an additional five per cent (5%) of said tax; said penalty shall never be less than One Dollar (\$1). Delinquent taxes shall bear interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 5.

Emergency. Effective Sept. 1, 1961.

**CHAPTER 5—OCCUPATION TAX ON SULPHUR PRODUCERS****Art. 5.01 Occupation Tax on Sulphur Producers, Amount of Tax**

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

## Art. 5.03. Failure to Pay Tax; Penalties

(1) Any person subject to the payment of said tax on sulphur failing to pay the tax levied in this Chapter within thirty (30) days after same is due and payable shall pay to the State as a penalty an additional amount equal to five per cent (5%) of the taxes due, and after the first thirty (30) days shall be forfeited an additional five per cent (5%) of said tax; said penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. The Attorney General or any district or county attorney at the direction of the Attorney General shall bring suit in behalf of the State to recover the amount of taxes, penalties, and interest past due and payable by any person affected by this law. The word "person" as used in this law shall include persons, firms, partnerships, companies, corporations, associations, common law trusts, or other concern by whatever name or however organized, formed, or created.

(2) The Comptroller may require such other information and such additional reports as he may deem advisable. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 6.

Emergency. Effective Sept. 1, 1961.

## CHAPTER 6—MOTOR VEHICLE RETAIL SALES AND USE TAX

## Art. 6.01 Tax on Retail Sales of Motor Vehicles

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

## CHAPTER 7—CIGARETTE TAX LAW

## Art. 7.02 Rate of Tax

(3) The impact of the tax levied by this Chapter is hereby declared to be on the vendee, user, consumer or possessor of cigarettes in this State and when said tax is paid by any other person, such payment shall be considered as an advance payment and shall thereafter be added to the price of the cigarettes and recovered from the ultimate consumer or user. Added Acts 1961, 57th Leg., p. 680, ch. 316, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Art. 7.15. State to Have Preferred Lien

All taxes, penalties, and cost of auditing, as hereinafter provided, due, or that might become due by any distributor to the State shall be and become a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such lien originated upon all the property of any distributor, devoted to or used in his business as distributor, which property shall include manufacturing plants, storage plants, warehouses, office building and equipment, trucks, cars or other motor vehicles or any other equipment devoted to such use and each tract of land on which such manufacturing plant, storage plant, warehouse, office building or other property is located, and other tangible property which is used in carrying on such business and in addition thereto any and all cigarettes and stamps of said distributor. If any

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distributor shall fail to pay any taxes and penalties due the State in the proper manner provided for such payment the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly paid, the distributor shall pay the reasonable expenses incurred in such investigation and audit as additional penalty. Provided, however, that all funds paid to the Comptroller as expenses incurred in making audits, shall be placed in the General Revenue Fund of the State. As amended Acts 1961, 57th Leg., p. 255, ch. 131, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

*Section 2 of the amendatory act of 1961 provided: "The Cigarette Tax Audit Fund No. 91 is hereby abolished and all cash assets remaining in that Fund on the effective date of this Act shall be transferred to the General Revenue Fund of the State within thirty (30) days of the effective date of this Act."*

**CHAPTER 8—CIGARS AND TOBACCO PRODUCTS TAX****Art. 8.02 Tax Levy and Rate**

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

**Art. 8.03 Tax on "first sale"**

The tax levied herein shall be paid only once to the State Treasurer by the person making the "first sale" in this State. Every person who makes a first sale or distributor of cigars or tobacco products in this State for any purpose whatsoever shall, at the time of such first sale or distribution, collect the tax imposed herein from the purchaser or recipient of such cigars or tobacco products, in addition to his selling price, and shall report and pay to the State of Texas the taxes collected at the time and in the manner hereinafter provided. In each subsequent sale or distribution of cigars or tobacco products upon which the tax imposed herein has been collected, the said tax shall be added to the selling price, so that such tax is paid ultimately by the person using or consuming said cigars or tobacco products in this State. No person, however, shall be required to pay a tax on cigars or tobacco products brought into this State on or about his person in quantities or amounts which would ordinarily retail at twenty-five cents (25¢) or less when such cigars or tobacco products are actually used by said person and not sold or offered for sale in this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 131, ch. 28, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

**CHAPTER 9—MOTOR FUEL (GASOLINE) TAX****Art. 9.02 Rate of Tax; Allowances for Handling and Evaporation**

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

**Art. 9.03 Reports**

(3) If any distributor shall fail to remit proper taxes collected upon the first sale or distribution of motor fuel, or taxes due upon the use of



motor fuel in Texas, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted and paid to the State of Texas, the distributor shall pay as additional penalty any reasonable expenses included by the Comptroller in such audit. Provided, however, that all funds paid to the Comptroller as expenses incurred in making audits shall be placed in the General Revenue Fund of the State. As amended Acts 1961, 57th Leg., p. 254, ch. 130, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

*Section 2 of the amendatory act of 1961 provided: "The Highway Motor Fuel Audit Fund, No. 74, is hereby abolished and all cash assets remaining in that fund on the effective date of this Act shall be transferred to the General Revenue Fund of the State within thirty (30) days of the effective date of this Act."*

(5) Reports. Every distributor selling motor fuel in this state for use in aircraft, or for resale for such purpose, shall attach to each monthly report required by law to be filed with the Comptroller by each distributor a schedule which shall become a part of such report and shall show complete information of all sales of motor fuel marketed by such distributor as aviation or aircraft motor fuel in such form as the Comptroller may require. The Comptroller is hereby authorized to prescribe records to be kept and reports to be made by distributors and refund dealers in whatever manner and form he deems necessary to determine the amount of motor fuel, used or sold for use in aircraft on which claim for refund of the tax is not made, and the failure or refusal to keep any such records or to make any such reports shall constitute cause for the cancellation of the permit or refund of dealer's license of those who fail or refuse to comply therewith. Added Acts 1961, 57th Leg., p. 817, ch. 371, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 9.13 Claims for Refunds

(5) It shall be unlawful for any refund dealer, or any employee thereof, to prepare any claim for refund of tax paid on motor fuel purchased from said refund dealer, or to act in any capacity as agent or employee of any claimant for refund of tax paid on motor fuel purchased from said refund dealer by keeping his books, records, refund claim forms or other documents to be used or intended for use by said claimant in the preparation of his tax refund claim, and the Comptroller shall not approve the payment of any tax refund claim, in whole or in part, in which the claimant has permitted the seller of the motor fuel upon which tax refund is claimed, or any employee of said seller, to prepare or file his claim for tax refund, or to keep any books, records or documents used in the preparation or filing of said claim. Provided that the Comptroller may, after proper hearing as herein provided, cancel, suspend, or refuse the issuance or reinstatement of the license of any refund dealer who shall prepare or who shall permit any employee to prepare any claim for refund of tax paid on motor fuel purchased from said refund dealer by the claimant thereof, or who shall keep, or permit any employee to keep, any duplicate invoice of exemption for more than seven (7) days after it has been duly issued to a purchaser of refund motor fuel. As amended Acts 1961, 57th Leg., p. 1026, ch. 453, § 1.

(6) Any person entitled to file claim for tax refund under the terms of this Article shall file such claim with the Comptroller on a form prescribed by the Comptroller within one (1) year from the date the motor fuel was delivered to him, or from the date the motor fuel was lost, exported or sold to the United States Government, and no refund of tax shall ever be made where it appears from the invoice of exemption or other evidence submitted, that the sale or delivery of the motor fuel was made more than one (1) year prior to the date the refund claim was actually received in the Comptroller's office. The refund claim, with all duplicate invoices of exemption required by law to be issued with the sale of refund motor fuel included as a part of said claim, shall show the quantity of refund motor fuel acquired and on hand at the beginning and closing dates of the period covered in the refund claim filed.

If any claimant was not present when the refund motor fuel was used for any purpose, except in machines operated upon stationary rails or tracks, the Comptroller may require such affidavits as he may deem necessary to prove the correctness of the claim, from persons who were present and used or supervised the using of the refund motor fuel. The claim for tax refund shall include a statement that the information shown in each duplicate invoice of exemption attached to the tax refund claim is true and correct, and that deductions have been made from the tax refund claim for all motor fuel used on the public highways of Texas and for all motor fuel used or otherwise disposed of in any manner in which a tax refund is not authorized herein. If upon examination, and such other investigation as may be deemed necessary, the Comptroller finds that the claim filed for tax refund is just, and that the taxes claimed have actually been paid by the claimant, then he shall issue warrant due the claimant but no greater amount shall be refunded than has been paid into the State Treasury on any motor fuel, and no warrant shall be paid by the State Treasurer unless presented for payment within two (2) years from the close of the fiscal year in which such warrant was issued, but claim for the payment of such warrant may be presented to the Legislature for appropriation to be made from which said warrant may be paid.

If the refund motor fuel for which tax refund is claimed was used on a farm, ranch, or for any nonhighway agricultural purpose, the claim shall show the name and address of the claimant, the period covered in the claim, the total number of gallons delivered to him during such period, the total number of gallons used off the public highways and the purposes for which used, the total number of gallons delivered to vehicles for any use on the highway, and the number of gallons on hand at the beginning and at the end of the period of the claim. The claim shall also show the number and kinds of tractors, combines or other equipment in which the refund motor fuel was used, and shall show the number of automobiles, trucks, pickups and other licensed vehicles operated regularly by the claimant or his employees, on or in connection with the farm, ranch or other agricultural project during the period of the claim, and shall also contain a statement that the same is true and correct, and that the same is made subject to penalties of Article 1.12 of Chapter 1, Title 122A, Revised Civil Statutes of the State of Texas, 1925.

If the refund motor fuel was used in mining, quarrying, drilling, producing, exploring for minerals, or in construction, maintenance, repair work or in other functions similar to the above uses, a distribution

schedule, or such other information as the Comptroller may require, shall be attached to and filed as a part of the refund claim which shall show the quantities of motor fuel delivered to and consumed in each vehicle or other unit of equipment used in such work during the period of the claim; provided, however, that no schedules shall be required to show the quantities of motor fuel used in machines operated upon stationary rails or tracks.

If the refund motor fuel was used in aircraft or motorboats, the claim shall show the make and description of such aircraft or motorboat and the quantities of motor fuel used during the period of the refund claim.

If the refund motor fuel was used for cleaning, or dyeing, or for industrial or domestic purposes, or was converted into a product other than motor fuel by any manufacturing or blending process, the claim shall show the purpose or purposes for which the motor fuel was used and the quantity used for each separate purpose.

Any person who shall file claim for tax refund on any motor fuel which has been used to propel a motor vehicle, tractor or other conveyance upon the public highways of Texas for any purpose for which a tax refund is not authorized herein, or who shall file any duplicate invoice of exemption in a claim for tax refund on which any date, figure or other material information has been falsified or altered after said duplicate invoice of exemption has been duly issued by the refund dealer and delivered to the claimant, shall forfeit his right to the entire amount of the refund claim filed. As amended Acts 1961, 57th Leg., p. 1026, ch. 453, § 1.

Emergency. Effective June 16, 1961.

(6a) Allocation of unclaimed aircraft fuel refunds to Available School Fund and to Texas Aeronautics Commission Fund. Each month the Comptroller, after making the deductions for refund purposes as provided in Article 9.13, Section (13) of this Chapter, shall determine as accurately as possible the number of gallons of motor fuel used in aircraft upon which the motor fuel tax has been paid to this state, and upon which refund of the tax thereon has not been made and against which a six (6) months limitation has run for filing claim for refund of said tax (called "unclaimed refunds"), and from the number of gallons so determined the Comptroller shall compute the amount of taxes that would have been refunded under the law had claims for same been filed in accordance with the law, and shall allocate and deposit such unclaimed refunds as follows: twenty-five per cent (25%) of such revenues shall be allocated, deposited, and set aside in the State Treasury placed to the credit of the Available School Fund. The remaining seventy-five per cent (75%) of such revenues shall be allocated, deposited, and set aside in the State Treasury in a special fund to be called the Texas Aeronautics Commission Fund and the same shall be credited to, and is hereby appropriated to, the Texas Aeronautics Commission for the purposes set forth in this Section, and which said Texas Aeronautics Commission Fund shall be administered by the Texas Aeronautics Commission, together with any other funds appropriated by the Legislature, for the support, maintenance and operation of the Texas Aeronautics Commission in the performance of its safety and all of its other functions, duties and responsibilities as may be now or hereafter delegated to such Commission as prescribed by law, and also for the payment of the Commissioners, the director, assistant director, the staff, and for equipment and supplies, including aircraft and automotive equipment as authorized by law. Any unexpended portion of the

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Texas Aeronautics Commission Fund allocated and placed to the credit of the Texas Aeronautics Commission, as herein prescribed, not used, and on hand, at the end of each fiscal year shall be returned to the Comptroller of Public Accounts and he shall place the same to the credit of the Texas Aeronautics Commission Fund for the use of the Texas Aeronautics Commission for the purposes stated herein. Added Acts 1961, 57th Leg., p. 817, ch. 371, § 2.

(13) All net moneys paid into the Treasury under the provisions of of this Chapter, except the filing fees provided herein, and except the funds placed in the Available School Fund and the Texas Aeronautics Commission Fund as provided in Section (6a) of this Article, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer showing the total maximum amount of refunds that may be required to be paid by the state out of such funds, or allocated to the Texas Aeronautics Commission Fund as provided in Section (6a) of this Article. The Comptroller shall on the 25th of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the state on the sale of motor fuel during the preceding month, upon which a refund may be due, or which shall be allocated to the Available School Fund and the Texas Aeronautics Commission Fund, as provided in Section (6a) of this Article, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, or to allocate the unclaimed refunds as provided in said Section (6a), and shall not distribute that part of said fund until the expiration of the time in which a refund can be made as provided by law, but as soon as said report has been made by the Comptroller and the maximum amount of refunds, and unclaimed refunds provided in said Section (6a), shall have been determined, he shall deduct said maximum amount from the total taxes paid for the month, and apply the remainder as provided by law. If a claimant has lost or loses, or for any reason fails to receive a warrant after the same has been issued by the Comptroller, then, upon satisfactory proof thereof, the Comptroller may issue such claimant a duplicate warrant as provided in Article 4365, Revised Civil Statutes of Texas, (Acts 3rd Called Session 1910, page 37; Acts 1953, 53rd Legislature, page 576; Chapter 219, Section I). As amended Acts 1961, 57th Leg., p. 817, ch. 371, § 3.

(14) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds, and to allocate and deposit the unclaimed refunds to the Available School Fund and the Texas Aeronautics Commission Fund as provided in said Section (6a), and if a specific amount be necessary then there is hereby appropriated and set aside for said purposes the sum of Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one and one-half per cent (1½%) deducted originally by the distributor upon the first sale or distribution of the motor fuel shall be deducted in computing the refund if a refund is claimed, then the Comptroller shall deduct fifty cents (50¢) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, as well as for payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby

appropriated for such purpose. All such filing fees shall be paid into the State Treasury and shall be paid out on vouchers and warrants in such manner as may be prescribed by law. In the event the refund on motor fuel used in aircraft is not claimed within six (6) months, as provided by this Chapter, the Comptroller shall deposit the remainder as provided in said section (6a). As amended Acts 1961, 57th Leg., p. 817, ch. 371, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 9.25 Enforcement Fund, Allocation of Revenue

Before any diversion or allocation of the motor fuel tax collected under the provisions of this Chapter is made, one per cent (1%) of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Chapter, and so much of said proceeds of one per cent (1%) of the motor fuel tax paid monthly as may be needed in such administration and enforcement, be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall, at the end of each fiscal year, revert (1) to the Highway Motor Fuel Tax Fund, and (2) to the Funds prescribed in Section (6a) of Article 9.13, as provided in this Chapter, in proportion to the amounts originally derived from such respective sources. The same shall then be allocated as provided in Article 9.13 of this Chapter and Section (6a) thereof, and in this Article 9.25, in the proportions above prescribed, and each month the Comptroller of Public Accounts, after making all deductions for exempt refund purposes and for the Funds derived from "unclaimed refunds" as provided in Article 9.13 of this Chapter, and for the enforcement of the provisions of this Chapter, shall allocate and deposit the net remainder of the taxes collected under the provisions of this Chapter, as follows: One-fourth ( $\frac{1}{4}$ ) of such tax shall go to, and be placed to the credit of, the Available School Fund; one-half ( $\frac{1}{2}$ ) of such tax shall go to and be placed to the credit of the State Highway Fund for the construction and maintenance of the State Road System under existing laws; and from the remaining one-fourth ( $\frac{1}{4}$ ) of such tax the Comptroller shall: (a) place to the credit of the County and Road District Highway Fund an amount determined by the Board of County and District Road Indebtedness and certified by the Board to the Comptroller of Public Accounts prior to August 31st each year, for the fiscal year beginning September 1st each year, to be required in addition to any and all funds already on hand, for the payment by the Board of the principal, interest and sinking fund requirements for each year, on all bonds, warrants or other legal evidences of indebtedness heretofore issued by counties or defined road districts of this state, which mature on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated state highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways and declared by the Board of County and District Road Indebtedness prior to January 2, 1945, to be eligible to participate in the distribution of the moneys in the County and Road District Highway Fund under the provisions of existing laws; (b) for the fiscal year beginning September 1, 1951, and each fiscal year thereafter, the Comptroller shall place to the credit of the Fund known as the County and Road District Highway Fund the sum of Seven Million, Three Hundred Thousand Dollars (\$7,300,000), said amount to be provided on the basis of equal monthly payments, payable on the first day of each cal-

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endar month, which sum shall be allocated by the Board of County and District Road Indebtedness to all of the counties of Texas not later than September 15th of each year, through the Lateral Road Account, as provided under Subsection (h) of Section 6 of Chapter 324 of the General and Special Laws of the 48th Legislature, Regular Session, 1943, as amended by Section 1 of Chapter 319, Acts of the 50th Legislature, 1947; and (c) the Comptroller shall place to the credit of the State Highway Fund the remainder of such one-fourth ( $\frac{1}{4}$ ) of such tax, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be used by the State Highway Department for the construction and improvement of Farm to Market Roads having the same general characteristics as the roads eligible for construction under Subsection 4b of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended. As amended Acts 1961, 57th Leg., p. 817, ch. 371, § 5.

Effective 90 days after May 23, 1961, date of adjournment.

*Article was also amended by Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. V, § 1. See art. 9.25, post.*

**Art. 9.25. Enforcement Fund, Allocation of Revenue**

Before any diversion or allocation of the motor fuel tax collected under the provisions of this Chapter is made, one per cent (1%) of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Chapter, and so much of said proceeds of one per cent (1%) of the motor fuel tax paid monthly as may be needed in such administration and enforcement be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall, at the end of each fiscal year, revert to the respective funds in the proper proportions to which the Motor Fuel Tax Fund levied by this Chapter is allocated at the end of each fiscal year.

Each month the Comptroller of Public Accounts shall, after making the deductions for refund purposes as provided in Article 9.13 of this Chapter, and for the enforcement of the provisions of this Chapter, allocate and deposit the remainder of the taxes collected under the provisions of this Chapter in the proportions as follows: One-fourth ( $\frac{1}{4}$ ) of such tax shall go to, and be placed to the credit of, the Available Free School Fund; one half ( $\frac{1}{2}$ ) of such tax shall go to and be placed to the credit of the State Highway Fund for the construction and maintenance of the State Road System under existing laws; and from the remaining one-fourth ( $\frac{1}{4}$ ) of such tax the Comptroller shall: (1) place to the credit of the County and Road District Highway Fund an amount determined by the Board of County and District Road Indebtedness and certified by the Board to the Comptroller of Public Accounts prior to August 31st each year, for the fiscal year beginning September 1st each year, to be required in addition to any and all funds already on hand, for the payment by the Board of the principal, interest and sinking fund requirements for each year, on all bonds, warrants or other legal evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated state highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System

of State Highways and declared by the Board of County and District Road Indebtedness prior to January 2, 1945, to be eligible to participate in the distribution of the moneys in the County and Road District Highway Fund under the provisions of existing laws; (2) for the fiscal year beginning September 1, 1951, and each fiscal year thereafter, the Comptroller shall place to the credit of the Fund known as the County and Road District Highway Fund the sum of Seven Million, Three Hundred Thousand Dollars (\$7,300,000), said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be allocated by the Board of County and District Road Indebtedness to all of the counties of Texas not later than September 15th of each year, through the Lateral Road Account, as provided under Subsection (h) of Section 6 of Chapter 324 of the General and Special Laws of the Forty-eighth Legislature, Regular Session, 1943, as amended by Section 1 of Chapter 319, Acts of the Fiftieth Legislature, 1947; and (3) the Comptroller shall place to the credit of the State Highway Fund the remainder of such one-fourth ( $\frac{1}{4}$ ) of such tax, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be used by the State Highway Department for the construction and improvement of Farm to Market Roads having the same general characteristics as the roads eligible for construction under Subsection 4b of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the Forty-seventh Legislature, as amended.

All receipts due the Available School Fund which are in the Highway Motor Fuel Tax Fund on August 31st of each fiscal year shall be credited to the Available School Fund on August 31st of each fiscal year. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. V, § 1.

Effective Aug. 31, 1961.

*Article was also amended by Acts 1961, 57th Leg., p. 817, ch. 371,*

*§ 5. See art. 9.25, ante.*

Abolishment of the Highway Motor Fuel Audit Fund, No. 74, see art. 9.03 note.

## CHAPTER 10—SPECIAL FUELS TAX

### Art. 10.03 Levy of Tax

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

## CHAPTER 11—MISCELLANEOUS TAXES BASED ON GROSS RECEIPTS

### Art. 11.11. Penalty for Failure to Pay Tax

Any person, company, corporation or association, or any receiver or receivers, failing to pay any tax for thirty (30) days from the date when said tax is required by this Chapter to be paid, shall forfeit and pay to the State of Texas a penalty of five per cent (5%) upon the amount of such tax, and after the first thirty (30) days he shall forfeit an additional five per cent (5%) of such tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 7.

Emergency. Effective Sept. 1, 1961.

CHAPTER 12—FRANCHISE TAX

Art. 12.01 Base and Rate of Tax

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas or doing business in Texas, shall, on or before May 1st of each year, file such reports as are required by Articles 12.08 and 12.19 and pay in advance to the Secretary of State a franchise tax for the year following which shall be based on whichever of the following shall yield the greatest tax:

(a) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of the sum of the stated capital, surplus and undivided profits, and outstanding bonds, notes and debentures, the sum of which for the purposes of this Chapter is hereafter referred to as "taxable capital," allocable to Texas in accordance with Article 12.02 of this Chapter.

As used in this Chapter, the phrase "stated capital" shall have the same meaning as defined in Article 1.02 of the Texas Business Corporation Act.

For the purpose of this Subsection outstanding bonds, notes and debentures shall include all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, and it is further provided that this term shall not include instruments which have been previously classified as surplus.

(b) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to the assessed value for County ad valorem tax purposes of the property owned by the corporation in this State.

(c) Twenty-five Dollars (\$25).

(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations incorporated only for the purpose of owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations incorporated only for the purposes of maintaining or owning or operating electric interurban railways, and corporations, four-fifths ( $\frac{4}{5}$ ) or more of whose assets are invested in, and four-fifths ( $\frac{4}{5}$ ) or more of whose gross income is received from, voting common capital stock which comprises four-fifths ( $\frac{4}{5}$ ) or more of the total fully voting common capital stock of one or more corporations which are public utility corporations under clause (3) hereof, shall be required hereafter to pay a franchise tax equal to one-fifth ( $\frac{1}{5}$ ) of the franchise tax herein imposed against all other corporations under Subsections (1)a or (1)b, but not less than the entire tax imposed by Subsection (1)c of this Article.

(3) Except as provided in preceding Subsection (2), all public utility corporations, which shall include any such corporation engaged solely in the business of public utilities as defined by the laws of Texas whose rates



or services are regulated, or subject to a regulation in whole or in part, by law, shall pay a franchise tax as provided in this Article which shall be based on whichever of the following shall yield the greatest tax:

(a) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of the stated capital, surplus and undivided profits, allocable to Texas in accordance with Article 12.02 of this Chapter.

(b) Two Dollars and Twenty-five Cents (\$2.25) per One Thousand Dollars (\$1,000) or fractional part thereof applied to the assessed value for County ad valorem tax purposes of the property owned by the corporation in this State.

(c) Twenty-five Dollars (\$25).

(4) Corporations engaged partly in the business of a public utility as defined in Subsection (3) of this Article and partly in business embraced in Subsection (1) of this Article shall pay the franchise tax in the following manner: as to those businesses which come under Subsection (1) the tax shall be computed as provided in Subsection (1) on that proportion of the entire taxable capital under said Subsection (1) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under Subsection (3) the tax shall be computed as provided in Subsection (3) on that proportion of the entire taxable capital under said Subsection (3) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be for the same period used in computing taxable capital allocable to Texas in accordance with Article 12.02 of this Chapter.

(5) A corporation now required to pay separate franchise tax for each purpose or business authorized by its charter shall hereafter pay only the tax provided hereunder for one purpose, and, until said corporation adopts the provisions of the Texas Business Corporation Act, it shall, in addition, pay one-fourth ( $\frac{1}{4}$ ) of such amount for each additional purpose named in its charter; provided, however, this Article shall not apply to corporations organized under the Electric Co-operative Corporation Act. Provided, further, that this Article does not amend, alter, or change in anywise any provisions of Chapter 86, page 163, Forty-fifth Legislature, Acts, 1937,<sup>1</sup> and provided further that nothing in this Article shall repeal any total exemption from franchise taxes now provided by law. As amended Acts 1961, 57th Leg., p. 182, ch. 97, § 1.

<sup>1</sup> Article 1528b.

Emergency. Effective April 27, 1961.

#### Art. 12.02. Allocation Formula

Each corporation liable for payment of a franchise tax shall determine the portion of its entire taxable capital taxable by the State of Texas by multiplying same by an allocation percentage which shall be the percentage relationship which the gross receipts from its business done in Texas bear to the total gross receipts of the corporation from its entire business.

For the purpose of this Article, the term "gross receipts from its business done in Texas" shall include:

(a) Sales of tangible personal property located within Texas at the time of the receipt of or appropriation to the orders where shipment is made to points within this State;

(b) Services performed within Texas;

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(c) Rentals from property situated, and royalties from the use of patents or copyrights, within Texas; and

(d) All other business receipts within Texas.

For the purpose of this Article, the term "total gross receipts of the corporation from its entire business" shall include all of the proceeds of all sales of the corporation's tangible personal property, all receipts from services, all rentals, all royalties and all other business receipts, whether within or outside of Texas. Provided, however, that, as to the sale of investments and capital assets, the term "total gross receipts of the corporation from its entire business" shall include only the net gain from such sales. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. II, § 1.

Emergency. Effective Sept. 1, 1961.

**Art. 12.03 Corporations Exempt**

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any county, city, or town, or other area within the state or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, or to state-chartered building and loan associations; or to any "mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes, or for nonprofit corporations having no capital stock organized for the purpose of the education of the public in the protection and conservation of fish, game and other wildlife, grasslands and forests, or to nonprofit water supply or sewer service corporations organized on behalf of cities or towns pursuant to Acts of 1933, 43rd Legislature, 1st Called Session, Chapter 76, as amended." As amended Acts 1961, 57th Leg., p. 41, ch. 27, § 1.

Emergency. Effective March 25, 1961.

**Art. 12.08 Report of Corporation**

(1) Except as herein provided all corporations required to pay an annual franchise tax shall, between January 1st and May 1st of each year, make a report to the Secretary of State on forms furnished by that officer, showing the condition of such corporation on the last day of the corporation's preceding fiscal year. Said report shall give the cash value of all gross assets of the corporation, the amount of its authorized capital stock actually subscribed, and the amount paid in, the surplus and undivided profits or deficit, if any, the amount of mortgage, bonded and current indebtedness, the amount and date of payment of the last annual, semiannual, quarterly, or monthly dividend, the assessed value, for County ad valorem tax purposes of all property of the corporation, real, personal or mixed, owned by the corporation in this State and the county in which assessed for such purposes, the amount of all taxes paid, or due and payable

to the State of Texas, or to any county, city or town, school district, road district, or other taxing subdivision of Texas for the preceding tax year.

(2) The report shall also contain any other information concerning the corporation that the Secretary of State shall direct. As amended Acts 1961, 57th Leg., p. 182, ch. 97, § 1.

Emergency. Effective April 27, 1961.

#### Art. 12.09. Initial Reports

Where a domestic corporation is chartered in this State or where a foreign corporation which has heretofore done no business in this State and is granted a permit to do business in Texas it shall file its first report within ninety (90) days from the expiration of one (1) year from the date such charter was filed or permit was granted, as the case may be, showing its condition as of the end of the month nearest the end of such first year. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 8.

Emergency. Effective Sept. 1, 1961.

#### Art. 12.10. Reports Confidential

Reports made under Articles 12.08 (or 12.08 and 12.09) shall be privileged and not for the inspection of the general public, but a bona fide stockholder owning one (1) or more shares of the outstanding stock of any corporation may examine such reports upon presentation of evidence of such ownership to the Secretary of State. No other examination, disclosure or use shall be permitted of the reports except in the course of some judicial proceedings in which the State or any bona fide stockholder is a party or in a suit by the State to cancel the permit or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Comptroller of Public Accounts, the State Auditor and the State Tax Commissioner; provided that the Secretary of State may in his discretion for good cause shown disclose to any interested person the names of the officers and directors and agents for service and the principal office and place of business of any corporation filing a franchise tax report.

The Comptroller is authorized to enter into exchange of information agreements with taxing officials of other states or of the Federal Government. The Comptroller may disclose such information as he deems necessary to taxing officials of other states or of the Federal Government under exchange of information agreements. As amended Acts 1961, 57th Leg., p. 182, ch. 97, § 1.

Emergency. Effective April 27, 1961.

#### Art. 12.14. Failure to Pay Tax and File Reports

Any corporation, either domestic or foreign, which shall fail to pay any franchise tax provided for in this Chapter when the same shall become due and payable under the provisions of this Chapter, or shall fail to file any report provided for in this Chapter, when the same shall become due, shall thereupon become liable to a penalty of five per cent (5%) of the amount of such franchise tax due by such corporation, and if said report has not been filed or said taxes have not been paid within thirty (30) days from the date said report or taxes shall have become due, an additional five per cent (5%) of such tax shall be forfeited; said penalty shall never be less than One Dollar (\$1). Delinquent taxes shall

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draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. If the reports required by Articles 12.08, 12.09 and 12.19 be not filed in accordance with the provisions of this Chapter, or if the amount of such tax and penalties be not paid in full on or before the thirtieth day after notice of delinquency is mailed to such corporation, such corporation shall for such default forfeit its right to do business in this State; which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the margin of the record kept in his office relating to such corporation the words, "right to do business forfeited" and the date of such forfeiture. Any corporation whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this State, except in a suit to forfeit the charter or permit of such corporation. In any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation unless its right to do business in this State shall be revived as provided in this Chapter. Each director and officer of any corporation whose right to do business within this State shall be so forfeited shall, as to any and all debts of such corporation, which shall include all franchise taxes and penalties thereon which shall become due and payable subsequent to the date of such forfeiture, and which may be created or incurred, with his knowledge, approval and consent, within this State, after such forfeiture by any such directors or officers, and before the revival of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such directors and officers of such corporations were partners. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 9.

Emergency. Effective Sept. 1, 1961.

**Art. 12.15. Notice of Forfeiture .**

The Secretary of State shall notify each domestic and foreign corporation which may be or become subject to a franchise tax under the laws of this State, which has failed to file such report or pay franchise tax on or before the first day of May, that unless such overdue report is filed or such overdue tax together with said penalties thereon shall be paid within thirty (30) days of the mailing of such notice, the right of such corporation to do business in this State will be forfeited without judicial ascertainment. Such notice may be either written or printed and shall be verified by the seal of the office of the Secretary of State, and shall be addressed to such corporation and mailed to the post office named in its articles of incorporation as its principal place of business, or to any other known place of business of such corporation. A record of the date of mailing such notice shall be kept in the office of the Secretary of State, and such notice and record thereof shall constitute legal and sufficient notice thereof for all purposes of this Chapter. Any corporation whose right to do business may have been forfeited, as provided in this Chapter, shall be relieved from such forfeiture by paying to the Secretary of State at any time prior to the forfeiture of the charter or permit of such a corporation, as hereinafter provided, the full amount of the franchise taxes, penalties and interest due by it. When such taxes, penalties, and interest shall be paid to the Secretary of State, he shall revive the right of the corporation to do business within the State by cancelling the words, "right to do business forfeited," upon his record and endorsing thereon the word "revived," and the date of such revival. If any domestic corporation or foreign corporation, whose right to do business within this State shall hereafter be forfeited under the pro-

visions of this Chapter, shall fail to pay the Secretary of State within one hundred and twenty (120) days after such forfeiture, the amount necessary to entitle it to have its right to do business revived under the provisions of this Chapter, such failure shall constitute sufficient ground for the forfeiture, by judgment of any court of competent jurisdiction, of the charter of such domestic corporation, or of the permit of such foreign corporation. It shall be the duty of the Secretary of State, after such one hundred and twenty (120) days next following such forfeiture, to certify to the Attorney General the names of all corporations, domestic and foreign, whose right to do business within this State shall have been forfeited as hereinbefore provided, and upon receiving such certificate the Attorney General shall forthwith institute suit against such corporations under the provisions of Article 12.16 of this Chapter. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 10.

Emergency. Effective Sept. 1, 1961.

#### Art. 12.19 Optional Use of Short Form Return

(3) The Secretary of State shall prescribe the form of reports to be made by any corporation electing to pay its franchise tax under the provisions of this Article. The Secretary of State may require such reports to contain any or all information required under Articles 12.08, 12.09, 12.11, or 12.12 of this Chapter.

There shall be submitted with the report a signed copy of the corporation's federal income tax return for the period described in Subsection (2) of this Article. All franchise tax reports and income tax returns furnished to the Secretary of State under the provisions of this Article shall be confidential in nature and treated as such by the Secretary of State under the same conditions as provided in Article 12.10. The Secretary of State or the State auditor may in the execution of this Article cause the books of any corporation electing to pay franchise taxes under this Article to be examined, whether such books be located within this State or any other state within the United States. The Secretary of State may make any rules or regulations necessary for the administration of this Article. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 11.

Emergency. Effective Sept. 1, 1961.

#### Art. 12.21. Additional Franchise Tax for Years Ending April 30, 1961; April 30, 1962; April 30, 1963; and April 30, 1964

(1) In addition to the franchise tax due and payable under Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under the provisions of Article 12.01 of this Chapter an additional franchise tax for the privilege of doing business in Texas in corporate form in the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, and from May 1, 1962, to and including April 30, 1963, and from May 1, 1963, to and including April 30, 1964, which additional franchise tax shall be computed by multiplying the tax due and payable under Article 12.01 of this Chapter for the aforesaid periods by 22.22 per cent.

(2) Corporations eligible to and electing to compute the franchise tax for which they are liable under the provisions of Article 12.19 of this Chapter shall, for the privilege of doing business in Texas in corporate form in the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, and from May 1, 1962, to and including April 30, 1963, and from May 1, 1963, to and including

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April 30, 1964, pay an additional franchise tax in accordance with the following schedule:

If Total Assets Are at Least	But Less Than	The Additional Tax Shall Be
\$ 0.00	\$ 20,000.00	\$ 7.50
20,000.00	40,000.00	12.00
40,000.00	60,000.00	20.00
60,000.00	80,000.00	30.00
80,000.00	90,000.00	40.00
90,000.00	110,000.00	45.00
110,000.00	120,000.00	50.00
120,000.00	130,000.00	55.00
130,000.00	140,000.00	60.00
140,000.00	150,000.00	65.00

(3) The additional franchise tax levied by this Article shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due and payable in the same periods under the provisions of this Chapter.

(4) The State Comptroller of Public Accounts shall have the right to make and promulgate such rules and regulations and to prescribe such forms as he deems necessary for the efficient and effective administration of the additional franchise tax levied by this Article.

(5) The additional franchise tax levied by this Article shall be cumulative of all other taxes imposed by this State.

(6) The additional franchise tax levied by this Article shall expire on April 30, 1964. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. II, § 2.

Emergency. Effective Sept. 1, 1961.

**CHAPTER 13—TAX ON COIN-OPERATED MACHINES****Art. 13.02. Amount of Tax**

(1) Every "owner" who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine," as defined herein in Article 13.01, except as are exempt herein, an annual occupation tax of Ten Dollars (\$10).

(2) Provided that nothing herein shall prevent the "operator" of such machine from paying the tax levied in this Chapter for the account of the "owner" but the payment of such tax by such operator or other person shall not relieve the owner from the responsibility of complying with all provisions of this Chapter including the keeping of records required in this Chapter. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. III, § 1.

Emergency. Effective Sept. 1, 1961.

**Art. 13.03. Exemptions from Tax**

Gas meters, pay telephones, pay toilets, food vending machines, confection vending machines, beverage vending machines, merchandise vending machines, and cigarette vending machines which are now subject to an occupation or gross receipts tax, stamp vending machines, and "service coin-operated machines," as that term is defined, are expressly

exempt from the tax levied herein, and the other provisions of this Chapter. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. III, § 2.  
Emergency. Effective Sept. 1, 1961.

#### Art. 13.08 Licenses or Permits; Collection of Tax; Payment of Expenses

The Comptroller of Public Accounts of this State is hereby authorized, ordered and directed to collect, and issue licenses or permits for the payment of the tax levied herein and to employ all the agencies of the law available to him for the enforcement of the provisions of this Chapter. Provided that Twenty-five Thousand Dollars (\$25,000) of the funds derived under the provisions of this Chapter shall be deposited annually to the credit of the General Revenue Fund as payment for the services of the Comptroller and other State agencies in the enforcement of this Chapter. As amended Acts 1961, 57th Leg., p. 265, ch. 140, § 1.

Effective September 1, 1961.

*Section 2 of the amendatory act of 1961 provided: Any unexpended balance in the Vending Machine and other Occupational Tax Enforcement Fund (No. 24) on August 31, 1961, shall be transferred to the General Revenue Fund within thirty (30) days after the effective date of this Act and the Vending Machine and other Occupational Tax Enforcement Fund (No. 24) is hereby abolished."*

Section 3 of the amendatory act of 1961 provided: "This Act shall become effective on September 1, 1961."

### CHAPTER 17—STORES AND MERCANTILE ESTABLISHMENTS

#### Art. 17.04. License Period

All licenses shall be so issued as to expire on the thirty-first day of December of each year. On or before the thirty-first day of December of each year every person, agent, receiver, trustee, firm, corporation, association, or copartnership having a license shall apply to the Comptroller of Public Accounts for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the Comptroller of Public Accounts. Each such application for a renewal license shall be accompanied by a filing fee of One Dollar (\$1) for each store or mercantile establishment operated or to be operated and by the license fee as prescribed in Article 17.05 of this Chapter. This application shall be mailed to the Comptroller and accompanying the application and the application fee shall be the amount of license due under the provisions of this Chapter. Those applications not mailed and which require the visit of a member of the Comptroller's staff for the collection of the application fee or the license fee shall pay a service fee of Five Dollars (\$5) for each store. If the application is not received by the due date there shall be added to the amount of the license fee a penalty of five per cent (5%) thereof, and after the first thirty (30) days an additional five per cent (5%) of such fee shall be forfeited; said penalty shall never be less than One Dollar (\$1). Delinquent fees shall bear interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 12.

Emergency. Effective Sept. 1, 1961.

**Art. 17.05 License Fees; Exemptions**

(a) Every person, agent, receiver, trustee, firm, corporation, association or copartnership opening, establishing, operating or maintaining one or more stores or mercantile establishments within this state, under the same general management, or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments. Every person, agent, receiver, trustee, firm, corporation, association and/or copartnership opening, establishing, operating and/or maintaining one or more stores or mercantile establishments within this state under the same general management and/or ownership and selling therein any equipment or appliances operated and/or used in connection with any electrical current and/or natural gas and/or artificial gas whether the same be in connection with the sale of electrical current and/or natural gas and/or artificial gas or not and whether such person, firm, agent, receiver, trustee, corporation, association and/or copartnership be also engaged in the business of furnishing some public utility services or not shall pay the license fees herein prescribed for the privilege of opening, establishing, operating and/or maintaining such stores or mercantile establishments. The license fee herein prescribed shall be paid annually and shall be in addition to the filing fee prescribed in Articles 17.02 and 17.04 of this Chapter. Provided that the term "store, stores, mercantile establishment, and mercantile establishments," wherever used in this Chapter shall not include: any place or places where or from which nothing is sold except ice; any wholesale and/or retail lumber and/or building material place of business, provided as much as seventy-five per cent (75%) of the gross proceeds of the business done each preceding calendar year at such place of business is derived from the sale of lumber and/or building material, provided that the term "building material" as used herein shall be construed to include any material which is used or usable in the construction of buildings, improvements or structures, including materials consumed in and any article to be built into and become a part of buildings, improvements or structures; also mechanics hand tools used in the construction of buildings, improvements, or structures; and/or oil and gas well suppliers and equipment dealers; and any place of business commonly known as a gasoline filling station, service station, or gasoline bulk station or plant, provided as much as seventy-five per cent (75%) of the gross proceeds of the business done thereat is derived from the selling, storing, or distributing of petroleum products; or business now paying an occupation tax measured by gross receipts except as otherwise specified in this Chapter; or any place or places of business used as bona fide wholesale or retail distributing points by manufacturing concerns for distribution of products of their own manufacture only; or any place or places of business used by manufacturers, manufacturers' representatives, wholesalers or jobbers, solely as showrooms or display rooms for exhibiting merchandise and from which locations no deliveries or retail sales are made; or any place or places of business used by bona fide processors of dairy products for exclusive sale at retail of such products; or any grower, producer, itinerant retailer or wholesaler of agricultural food products who sells such produce in any stall or space rented or leased on a daily basis in a municipally owned or operated produce market; or any place or places of business commonly known as religious bookstores operated for the purpose of selling religious publications of any nature including Bibles, Song Books, Books on Religious Subjects, Church Offering Envelopes, Church, Sunday School, and Training Union Supplies or any place or places of business operated by non-profit religious and charitable institutions and organiza-



tions; or any restaurants, sandwich shops and other eating places; or any business operating for the purpose of parking automobiles, parking lots, garages; or any radio station; provided that gas and/or electric utilities shall not hereafter be required to pay any license fee under this Chapter for the privilege of operating in towns of three thousand (3,000) population or less according to the next preceding Federal Census, a store or stores for the purpose of selling gas and/or electrical appliances and/or parts for the repair thereof, provided as much as seventy-five per cent (75%) of the total gross receipts in the preceding calendar year in each such town where such a store or stores are located is derived from the sale therein of gas and/or electric service, and provided further, that for the privilege of operating a store or stores in the towns of more than three thousand (3,000) population, according to the next preceding Federal Census, for the purpose of selling any or all of the above-named commodities, gas and/or electrical utilities shall pay only the fees imposed by Articles 17.02, 17.04, 17.05 of this Chapter. As amended Acts 1961, 57th Leg., p. 971, ch. 421, § 1.

Emergency. Effective June 16, 1961.

(c) All those establishments, except religious bookstores, non-profit religious or charitable stores, or mercantile establishments owned and operated by religious or charitable organizations, exempted from the above schedule by this Chapter shall file an application as required by Articles 17.02 and 17.04 of this Chapter. If they meet the requirements of this Chapter for exemption, they shall pay an exemption fee of Four Dollars (\$4) for one (1) store and Nine Dollars (\$9) for each additional store in excess of one (1). As amended Acts 1961, 57th Leg., p. 971, ch. 421, § 2.

Emergency. Effective June 16, 1961.

## CHAPTER 18—CEMENT PRODUCTION TAX

### Art. 18.01 Tax

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

### Art. 18.03. Penalties

If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25), and not more than One Thousand Dollars (\$1,000) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly he shall forfeit five per cent (5%) thereof as a penalty, and after the first thirty (30) days he shall forfeit an additional five per cent (5%) of said tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. The State shall have a prior lien for all delinquent taxes, penalties and interest on all of the property used by the distributor in his business of distributing, selling and/or using cement. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 13.

Emergency. Effective Sept. 1, 1961.

**CHAPTER 19—MISCELLANEOUS OCCUPATION TAXES**

**Art. 19.01 Miscellaneous Occupation Taxes**

(2) **Brokers and Factors.** From every person, acting for himself or on behalf of another, engaged in the business or occupation of a Broker or Factor, whether he is principally engaged in such business or not, there shall be collected Twelve Dollars (\$12) per year. A 'broker' or 'factor,' for the purpose of this Subsection, is every person who, for another and for a fee, commission or other valuable consideration, rents, buys, sells, or transfers, for actual spot or future delivery, or negotiates purchases or sales or transfers of stocks, bonds, bills of exchange, negotiable paper, promissory notes, bank notes, exchange, bullion, coin, money, lumber, coal, cotton, grain, horses, cattle, hogs, sheep, produce and merchandise of any kind; whether or not he receives and delivers possession thereof; provided that this Subsection shall not apply to a salesman who is employed on a salary or commission basis by not more than one retailer, wholesaler, jobber, or manufacturer, nor shall this Subsection apply to or be construed to include persons selling property only as receivers, trustees in bankruptcy, executors, administrators, or persons selling under the order of any court, or any person who is included within the definition of any other occupation and is paying or subject to the payment of a tax under any other Subsection of this Chapter; however, this exemption shall not apply to any individual engaged in more than one occupation as defined by the other Subsections of this Article. As amended Acts 1961, 57th Leg., p. 585, ch. 277, § 1.

Emergency. Effective May 29, 1961.

**Art. 19.02 Certain Services Connected with Oil Wells**

(3) The tax hereby imposed shall be at the rate of 2.42 per cent of the gross amount received from the services or duty specified above after deducting from such gross amount the reasonable value at the well of any material used, consumed, expended in or incorporated into the well. The amount received from such taxable services during the calendar month next preceding shall be reported by the person subject to the tax imposed hereby on a form prescribed and furnished by the Comptroller and the tax thereon shall be paid to the Comptroller at his office in Austin, Texas, on or before the twentieth day of each month. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 14.

Emergency. Effective Sept. 1, 1961.

(5) If any person shall violate any provisions of this Article, he shall forfeit to the State of Texas, as a penalty, the sum of not less than Twenty-five Dollars (\$25), and not more than Five Hundred Dollars (\$500) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax when the same shall become due, he shall forfeit five per cent (5%) thereof as a penalty, and after the first thirty (30) days, he shall forfeit an additional five per cent (5%) of said tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. The State shall be secured for all taxes, penalties, interests and costs due by any person under the provisions of this Article by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such

lien originated upon all the property used by said person in his business. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 14.

Emergency. Effective Sept. 1, 1961.

## CHAPTER 20—LIMITED SALES, EXCISE AND USE TAX

### Art. 20.01 Title—Definitions

This Chapter is known and may be cited as the "Limited Sales, Excise and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context:

(A) Person. "Person" shall mean and include any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, or any other group or combination acting as a unit. "Person" shall also include the United States or any agency thereof, this State, or any agency hereof, or any city, county, special district, or other political subdivision of this State to the extent engaged in the selling of tangible personal property taxable under this Chapter.

(B) Comptroller. "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

(C) Business. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(D) Receipts.

(1) "Receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the tangible personal property sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the tangible personal property.

(b) The cost of the materials used, labor or service costs, interest paid, losses or any other expenses.

(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

(2) "Receipts" does not include any of the following:

(a) Cash discounts allowed on sales.

(b) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit.

- (c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the tangible personal property sold.
  - (d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.
  - (e) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.
  - (f) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of a like kind or nature.
  - (g) Charges for transportation of tangible personal property after sale.
- (3) For purposes of the limited sales tax, if the retailer establishes to the satisfaction of the Comptroller that the limited sales tax has been added to the total amount of the sale price and has not been absorbed by him, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

(E) In this State or Within the State. "In this State" or "Within the State" means within the exterior limits of the State of Texas and includes all territory within these limits owned by or ceded to the United States of America.

(F) Occasional Sale. "Occasional Sale" means one (1) or two (2) sales of tangible personal property at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling such tangible personal property at retail.

(G) Purchase. "Purchase" means:

- (1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.
- (2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.
- (3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

(H) Rental Price or Lease Price.

- (1) "Rental Price" or "Lease Price" means the total amount for which tangible personal property is rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:
  - (a) The cost of the tangible personal property rented or leased.
  - (b) The cost of material used, labor or service cost, interest charged, losses, or any other expenses.

- (c) The cost of transportation of the tangible personal property at any time.
- (2) The total amount for which tangible personal property is rented or leased includes all of the following:
  - (a) Any services which are a part of the lease or rental.
  - (b) Any amount for which credit is given to the lessee or rentee by the lessor or renter.
- (I) Retail Sale or Sale at Retail. "Retail Sale" or "Sale at Retail" means:
  - (1) A sale for any purpose other than for resale in the regular course of business of tangible personal property.
  - (2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts.
- (J) Retailer.
  - (1) "Retailer" includes:
    - (a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.
    - (b) Every person making more than two retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.
    - (c) Every person who leases or rents to another tangible personal property for storage, use or other consumption, except that persons engaged in the leasing or licensing of motion picture films of any kind or character to motion picture theatres, television stations and others shall be liable for the tax levied under the provisions of this law, and they shall not pass said tax along to the person or persons to whom they lease or license said motion picture films.
  - (2) When the Comptroller determines that it is necessary for the efficient administration of this Chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Comptroller may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this Chapter.
- (K) Sale.
  - (1) "Sale" means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or other-

wise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(2) "Sale" includes:

- (a) The producing, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting.
- (b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.
- (c) The furnishing, preparing or serving for a consideration of food, meals, or drinks.
- (d) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.
- (e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

(L) Sales Price.

(1) "Sales Price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

- (a) The cost of the tangible personal property sold.
- (b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.
- (c) The cost of transportation of the tangible personal property prior to its sale or purchase.

(2) The total amount for which tangible personal property is sold includes all of the following:

- (a) Any services which are a part of the sale.
- (b) Any amount for which credit is given to the purchaser by the seller.

(3) "Sales Price" does not include any of the following:

- (a) Cash discounts allowed on sales.
- (b) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit.
- (c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the tangible personal property sold.
- (d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.
- (e) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

- (f) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.
- (g) Charges for transportation of tangible personal property after sale.

(M) Seller. "Seller" includes every person engaged in the business of selling, leasing or renting tangible personal property of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax.

(N) Storage. "Storage" includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer.

(O) Storage and Use Exclusion—"Storage" and "Use" do not include the keeping, retaining or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the State and thereafter used solely outside the State.

(P) Tangible Personal Property. "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(Q) Taxpayer. "Taxpayer" means any person liable for tax under this Chapter.

(R) Use. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business.

(S) Sale for Resale. "Sale for Resale" shall mean a sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it in the normal course of his business. A sale for resale shall include a sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing said tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

(T) Contractor or Repairman. "Contractor" or "Repairman" shall mean any person who performs any repair services upon tangible personal property or who performs any improvement upon real estate, and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him into the property being so repaired or improved. Contractor or repairman shall be considered to be the consumer of such tangible personal property furnished by him and incorporated into the property of his customer, for all of the purposes of this Chapter.

(1) The above provision shall apply only if the contract between the person performing the services and the person receiving them contains a lump sum price covering both the performance of the services and the furnishing of the necessary incidental material.

(2) If the contract between the person providing the services and the person receiving them contains separate amounts applicable to the performance of the services and the furnishing of the material then the above Section shall not apply, and the

person furnishing the materials shall be liable for the limited sales tax upon the agreed price of the materials as thus set forth in the contract. Provided, however, that the agreed price of the materials shall not be less than the actual cost of such materials to the person so providing them.

- (3) In any case where the person so providing such materials has paid the limited sales tax to his supplier when purchasing the tangible personal property, he shall be entitled to credit the tax so paid to his supplier against any tax imposed by this Chapter with respect to his subsequent sale of that tangible personal property.

(U) Manufacturing. "Manufacturing" shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

Prior to the amendment by Acts 1961, 57th Leg., 1st C.S. p. 71, ch. 24, art. I, § 1, article 20.01(h) was amended by Acts 1961, 57th Leg., p. 923, ch. 408, § 1 to read as follows:

"(h) 'Component part' shall mean any mechanical or electronic apparatus, equipment, device or electronic part or combina-

tion thereof designed or manufactured and sold for the purpose of being used in the assembly, installation, maintenance or testing of radios, television sets or phonographs as defined under this Chapter, and shall also include any metal, wood, or plastic housing or cabinet built or manufactured to contain a radio, television, or phonograph."

**Art. 20.02. Imposition of Limited Sales Tax**

There is hereby imposed upon each separate sale at retail of tangible personal property made within this State a limited sales tax at the rate of two per cent (2%) of the sale price of each item or article of tangible personal property when sold at retail in this State.

(A) Method of Collection and Rate of Limited Sales Tax. The tax hereby imposed shall be collected by the retailer from the consumer.

- (1) The tax shall be as follows and shall be collected by using the following bracket system formula on each retail sale:

Amount	Tax
\$ .01 to \$ .24	No Tax
.25 to .74	\$ .01
.75 to 1.24	.02
1.25 to 1.74	.03
1.75 to 2.24	.04

Provided, further, that for each additional fifty cents (50¢) of purchase, or fraction thereof, one cent (1¢) limited sales tax shall be collected thereon.

- (2) The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited.

(B) Assumption or Absorption of Tax by Retailer; Unlawful Advertising.

- (1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or in-



directly, that the tax or any part thereof will be assumed or absorbed by him or that it will not be added to the selling price of the tangible personal property sold or that, if added, it or any part of it will be refunded. Provided, however, that this paragraph (B) does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this Chapter.

- (2) Any person violating any provision of this paragraph is guilty of a misdemeanor.

(C) Limited Sales Tax Permit Application.

- (1) Every person desiring to engage in or to conduct business as a seller within this State shall file with the Comptroller an application for a permit for each place of business.
- (2) Every application for a permit shall:
- (a) Be made upon a form prescribed by the Comptroller.
  - (b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.
  - (c) Set forth such other information as the Comptroller may require.
  - (d) The application shall be signed by the owner if he is a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(D) Limited Sales Permit Issuances. After compliance with paragraph (C) of this Article by the applicant, the Comptroller shall grant and issue to each applicant without charge a separate permit for each place of business within the State. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(E) Revocation, Suspension of Permit: Procedure.

- (1) Whenever any person fails to comply with any provision of this Chapter relating to the limited sales tax or with any rule or regulation of the Comptroller relating to such tax prescribed and adopted under this Chapter, the Comptroller upon hearing, after giving the person twenty (20) days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person.
- (2) The Comptroller shall give to the person written notice of the suspension or revocation of any of his permits.
- (3) The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.
- (4) The Comptroller shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this Chapter relating to the limited sales tax and the regulations of the Comptroller.
- (5) The action of the Comptroller may be appealed by the taxpayer in the same manner as a final deficiency determination.

(F) **Presumption of Taxability: Resale Certificate.** For the purpose of the proper administration of this Chapter and to prevent evasion of the limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for the purpose of reselling, leasing or renting it.

(G) **Effect of Resale Certificate.** The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling, leasing or renting tangible personal property. A resale certificate may be given by a purchaser, who at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased or rented or will be used for some other purposes.

(H) **Form and Contents of Resale Certificate.**

(1) The certificate shall:

- (a) Be signed by and bear the name and address of the purchaser.
- (b) Indicate the number of the permit, if any, issued to the purchaser.
- (c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.

(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

(I) **Liability of Purchaser Giving Resale Certificate.** If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the tangible personal property to him shall be deemed the measure of the tax.

(J) **Resale Certificate; Commingled Fungible Goods.** If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of goods covered by the resale certificate until a quantity of such goods equal to the quantity of the goods so commingled has been sold.

(K) **Bad Debts.** Credit shall be allowed to the retailer for taxes paid on sales represented by that portion of an account determined to be worthless and actually charged off for federal income tax purposes or on the portion of the purchase price remaining unpaid at the time of a repossession made under the terms of a conditional sales contract.

(L) **Refunds and Allowances.** Credit shall be allowed to the retailer for taxes paid on the amount of any refunds or credits allowed to a purchaser as a result of a bona fide renegotiation of a sales price. Such renegotiation shall include agreements by which the seller refunds or allows credit for any amount in satisfaction for an alleged breach of warranty with respect to tangible personal property previously sold by

him to the person with whom said agreement is made. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

#### Art. 20.03. Imposition and Rate of Use Tax

An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer on or after September 1, 1961, for storage, use or other consumption in this State at the rate of two per cent (2%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental prices.

(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer maintaining a place of business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax, regarded as a retailer maintaining a place of business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(B) Collection by Retailer: Purchaser's Receipt. Every retailer maintaining a place of business in this State and selling, leasing or renting tangible personal property for storage, use or other consumption in this State, shall, at the time of making the sales, collect any use tax which may be due from the purchaser and shall give the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

(C) Assumption, Absorption of Tax by Retailers, Unlawful Advertising. It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the tangible personal property sold, rented or leased, or that, if added, it or any part thereof will be refunded.

(D) Unlawful Acts. Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

(E) Registration of Retailers. Every retailer selling, leasing or renting tangible personal property for storage, use or other consumption in this State shall register with the Comptroller and give:

- (1) The names and addresses of all agents operating in this State.
- (2) The location of all distribution or sales houses or offices or other places of business in this State.
- (3) Such other information as the Comptroller may require.

(F) Presumption of Purchase for Use: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents

the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing or renting.

(G) **Effect of Resale Certificate.** The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be so sold, leased or rented or will be used for some other purpose.

(H) **Form and Contents of Resale Certificate.**

(1) The certificate shall:

- (a) Be signed and bear the name and address of the purchaser.
- (b) Indicate the number of the permit, if any, issued to the purchaser.
- (c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.

(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

(I) **Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale.** If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

(J) **Improper Use of Resale Certificates.** Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

(K) **Resale Certificate: Commingled Fungible Goods.** If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

(L) **Presumption of Purchase from Retailer.** It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use, or other consumption in this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

Credit or refund for use tax, see art. 20.-  
10(c).

## Art. 20.04. Exemptions

“Exempted from taxes imposed by this Chapter,” as used herein, means exempted from the computation of the amount of the taxes imposed.

**Exemption Certificates.** If a purchaser certifies in writing to a seller that the tangible personal property purchased will be used in a manner or for a purpose entitling the seller to regard the receipts from the sale as exempted by this Chapter from the computation of the amount of the limited sales tax, and if the purchaser then uses the tangible personal property in some other manner or for some other purpose, the purchaser shall be liable for payment of the limited sales tax as if he were a retailer making a retail sale of the tangible personal property at the time of such use, and the cost of the tangible personal property to him shall be deemed the receipts from such retail sale for the purpose of determining the amount of tax for which he is liable.

(A) **Constitution and Statutory Exemptions.** There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of and the storage, use or other consumption in this State of tangible personal property the gross receipts from the sale, lease or rental of which, or the storage, use or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

(B) **Items Taxed Under Existing Statutes.**

- (1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental, production or distribution or the storage, use or other consumption in this State of (a) natural gas as taxed under the provisions of Chapter 3<sup>1</sup> of this Title; (b) oil as taxed under the provisions of Chapter 4<sup>2</sup> of this Title; (c) sulphur as taxed under the provisions of Chapter 5<sup>3</sup> of this Title; (d) motor vehicles, trailers and semi-trailers as defined and taxed under the provisions of Chapter 6<sup>4</sup> of this Title; (e) cigarettes as defined and taxed under the provisions of Chapter 7<sup>5</sup> of this Title; (f) cigars and tobacco products as defined and taxed under the provisions of Chapter 8<sup>6</sup> of this Title; (g) motor fuels as defined, taxed or exempted under the provisions of Chapter 9<sup>7</sup> of this Title; (h) special fuels as defined, taxed or exempted under the provisions of Chapter 10<sup>8</sup> of this Title; and (i) cement as taxed under the provisions of Chapter 18<sup>9</sup> of this Title.
- (2) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, production, distribution or the storage, use or other consumption in this State of alcoholic beverages, including distilled spirits, beer, ale and wine, subject to a tax imposed by the Texas Liquor Control Act,<sup>10</sup> as amended; except that any such alcoholic beverages shall be taxable when, and only when, consumed with food as a part of a meal served on or off the premises of the vendor for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the vendor.
- (3) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of water.

- (4) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of telephone and telegraph service.

(C) Component Parts: Packaging and Containers.

- (1) Component Parts. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of, tangible personal property which will become an ingredient or component part of, or be incorporated into or used or consumed in a manufactured, processed or fabricated product of tangible personal property produced for ultimate sale at retail within or without this State; and tangible personal property, such as chemical materials used as catalytic agents, used or consumed in any manner in manufacturing, processing or fabricating a product of tangible personal property for ultimate sale at retail within or without this State. The exemption provided by this Subsection does not apply to machinery or equipment having a useful life, when new, in excess of six (6) months or to replacement parts and accessories for such machinery and equipment or to tangible personal property such as hand tools, intraplant transportation equipment, expendable items and supplies, office machines and supplies and other materials which are incidental to or useful in manufacturing, processing or fabricating operations.
- (2) Wrapping, Packing and Packaging Supplies.
  - (a) There are exempted from the taxes imposed by this Chapter the receipts from sales of all internal and external wrapping, packing, and packaging supplies and materials to any person for use in wrapping, packing or packaging any tangible personal property for the purpose of expediting or furthering in any way the sale of that property.
  - (b) For the purpose of this Section, wrapping, packing and packaging supplies shall include, but shall not be limited to:
    - (1) Wrapping paper, wrapping twine, bags, cartons, crates, crating materials, tape, rope, labels, staples, glue and mailing tubes;
    - (2) Property used inside a package in order to shape, form, preserve, stabilize or protect the contents, such as, but not limited to, excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay and laths.
- (3) Containers.
  - (a) There are exempted from the taxes imposed by this Chapter the receipts of sales, leases, or rentals of, and the storage, use or other consumption, in this State, of:
    - (1) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.
    - (2) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this Chapter.

- (3) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.
- (a)<sup>34a</sup> As used in this Article, the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for re-use. All other containers are "nonreturnable containers."

(D) Meals and Food Products; Sales to Students; Teachers. There are exempted from the taxes imposed by this Chapter the receipts from the sale of, and the storage, use or other consumption in this State of, meals and food products for human consumption served by public or private schools, school districts, student organizations, or Parent-Teacher Associations pursuant to an agreement with the proper school authorities, to the students or teachers of an elementary or secondary school during the regular school day.

(E) Interstate Shipments.

- (1) Property Shipped Outside State Pursuant to Sales Contract; Delivery by Retailer. There are exempted from the taxes imposed by this Chapter receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside this State by the retailer by means of:
- (a) Facilities operated by the retailer.
- (b) Delivery by the retailer to a carrier for shipment to a consignee at such point; or
- (c) Delivery by the retailer to a customs broker or forwarding agent for shipment outside this State.
- (2) Common Carriers. There are exempted from the computation of the limited sales tax, the receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this State and the tangible personal property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier outside the State of Texas.
- (3) Special Use Tax Exemption. The use tax imposed herein shall not apply to:
- (a) The use, in this State, of tangible personal property which is acquired outside this State and which is moved into this State for use as a licensed and certificated carrier of persons or property.
- (b) The temporary storage in this State of tangible personal property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property which is used solely outside this State.
- (c) The storage, use or consumption of tangible personal property which is acquired outside this State, the sale, lease or rental or the storage, use or consumption of which tangible personal property would be exempt from the limited sales or use tax were it purchased within this State.

- (d) The storage and use, in this State, of tangible personal property acquired outside this State for use as a repair or replacement part for and actually affixed to a licensed and certificated carrier of persons or property.

(F) United States; State; Political Subdivisions; Religious, Eleemosynary Organizations. There are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by:

- (1) The United States, its unincorporated agencies and instrumentalities.
- (2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
- (3) The State of Texas, its unincorporated agencies and instrumentalities.
- (4) Any county, city, special district or other political subdivision of this State.
- (5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

(G) Occasional Sales. There are exempted from the taxes imposed by this Chapter the receipts from the occasional sales of tangible personal property and the storage, use or other consumption in this State of tangible personal property the transfer of which to the consumer constitutes an occasional sale or the transfer of which to the consumer is made by way of an occasional sale.

(H) Written Contracts and Bids Executed Prior to the Effective Date of this Chapter. There are exempted from the taxes imposed by this Chapter the receipts from the sale, use or rental of, and the storage use or other consumption in this State of, tangible personal property (i) used for the performance of a written contract entered into prior to the effective date of this Chapter or (ii) pursuant to the obligation of a bid or bids submitted prior to the effective date of this Chapter which bid or bids could not be altered or withdrawn on or after that date and which bid or bids and contract entered into pursuant thereto are at a fixed price not subject to change or modification by reason of a tax imposed by this Chapter.

Provided, however, that notice of such contract or bid by reason of which an exclusion is claimed under this paragraph (H) must be given by the taxpayer to the Comptroller on or before the lapse of one hundred and twenty (120) days from the date of passage of this Chapter.

(I) Use Tax: Reciprocal Credit for Similar Taxes Paid Elsewhere. There shall be allowed as a credit to any taxpayer against the use tax imposed by this Chapter upon any tangible personal property, the amount of any like tax paid by that taxpayer in another State, territory or possession of the United States of America with respect to the sale, purchase or use of such property; provided that such other states, territories, or possessions provide for a similar tax credit for taxpayers of this State.

(J) Use Tax Inapplicable When Limited Sales Tax Applies or When Use Tax Previously Paid. The storage, use or other consumption in this State of tangible personal property, the receipts from the sale, lease, rental



or use of which are required to be included in the measure of the limited sales tax, or tangible personal property upon which a use tax has been paid by the taxpayer using said tangible personal property, is exempted from the use tax imposed by this Chapter.

(K) Food and Food Products for Human Consumption. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of, food products for human consumption.

- (1) "Food products" shall include, except as otherwise provided herein, but shall not be limited to, cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments and salt; sugar and sugar products; coffee and coffee substitutes; tea, cocoa and cocoa products; or any combination of the above.
- (2) "Food products" shall not include:
  - (a) Medicines, tonics, vitamins and medicinal preparations in any form;
  - (b) Water, including mineral bottled water, carbonated water, and carbonated and noncarbonated packaged soft drinks and diluted juices where sold in liquid, frozen or dry-mix forms; and ice and candy.
  - (c) Meals served on or off the premises of the vendor or drinks or food furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware provided by the vendor. Provided, however, meals, food and drink served to patients and inmates of hospitals and other institutions licensed by the State for the care of human beings shall be deemed "food products."

(L) Drugs, Medicines, Prosthetic Devices. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of drugs and medicines when prescribed by a licensed physician. There are also exempted from the taxes imposed by this Chapter, braces, spectacles, hearing aids, and orthopedic and dental prosthetic appliances.

(M) Animal Life; Feed; Seeds; Plants; Fertilizer. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of:

- (1) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption.
- (2) Feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.
- (3) Seeds, annual plants, fungicides and insecticides applied thereto, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.
- (4) Fertilizer to be applied to land the products of which are to be used as food for human consumption or sold in the regular course of business.
- (5) Farm machinery or equipment exclusively used or employed on farms or ranches in the production of food for human consumption.

tion, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

(N) Sale for Resale: Leasing or Renting.

- (1) There are exempted from the taxes imposed by this Chapter the receipts from all sales for resale, leasing or renting.
- (2) However, if a person purchases tangible personal property for the purpose of leasing or renting it to another person, and if he later sells it by means of an occasional sale before he has collected and paid to this State as much tax on the rental or lease charges as would have been due and payable to this State had he not purchased the tangible personal property for the purpose of so renting and leasing it, he shall, at the time of his occasional sale of said tangible personal property include in his receipts from taxable sales the amount by which his purchase price exceeded the amount of rents collected by him on said tangible personal property.
- (3) Where a lessor makes a retail sale of leased tangible personal property to a lessee of that tangible personal property under an agreement whereby certain rental payments are credited against the purchase price of that tangible personal property, he need not collect or pay any tax on the sale price to the extent that he has collected and paid on such rental payments.

(O) Vessels.

- (1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty (50) tons load displacement and over, built in this State, and the receipts from the sale of such ships, vessels, or barges when sold by the builder thereof.
- (2) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; or to materials and supplies used in the repair of such ships and vessels where such materials and supplies enter into and become a component part of such ships or vessels.
- (3) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of drilling equipment used for oil exploitation or production when such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

(P) Certain Aircraft. There are exempted from the taxes imposed by this Chapter the receipts from the sale, use, storage, lease or other consumption of aircraft sold to persons using such aircraft as certificated or licensed carriers of persons or property, or sold to any foreign government or sold to persons who are not residents of this State.

(Q) Certain Utility Service Exempt. There are exempted from the taxes imposed by this Chapter the sale, production, distribution, lease or

rental of and the storage, use or other consumption in this State of gas and electricity when used in industrial, manufacturing, mining, agricultural, dairy or poultry operations or pumping water for irrigation or for electrical processes such as electroplating and electrolysis.

(R) Rolling Stock. There are exempted from the taxes imposed by this Chapter receipts from any sale, use, storage or other consumption of locomotives and rolling stock, including fuel or supplies for the direct operation of locomotives and trains.

(S) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of books consisting wholly of writings sacred to any religious faith.

(T) Work Clothes.

- (1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, storage, use or other consumption in this State of any single article of outer wearing apparel, the retail price of which is less than Ten Dollars (\$10).
- (2) For the purpose of this Section, the term "article of outer wearing apparel" shall not be construed to include clothing accessories such as cuff links, tie holders, tie clasps, belts, cravats, scarves, collar stays, stickpins, billfolds, wallets, handbags, canes, unattached buttons, ornamental jewelry of any type, bathing suits, sleeping garments, bathrobes, lingerie, negligees, and lounging pajamas.
- (3) For the purpose of this Section, any components of outer wearing apparel, as defined herein, ordinarily sold or offered for sale as a pair, suit or ensemble shall be, when sold, deemed to be the sale of a single article.
- (4) Whenever any single article of outer wearing apparel sells for a retail price of Ten Dollars (\$10) or more, the tax shall be computed on the entire selling price of the article in accordance with the schedule set forth in Article 20.02 (A) of this Chapter. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

<sup>1</sup> Article 3.01 et seq.

<sup>2</sup> Article 4.01 et seq.

<sup>3</sup> Article 5.01 et seq.

<sup>4</sup> Article 6.01 et seq.

<sup>5</sup> Article 7.01 et seq.

<sup>6</sup> Article 8.01 et seq.

<sup>7</sup> Article 9.01 et seq.

<sup>8</sup> Article 10.01 et seq.

<sup>9</sup> Article 18.01 et seq.

<sup>10</sup> Vernon's Ann.P.C. arts. 666—1 et seq., 667—1 et seq.

Emergency. Effective Sept. 1, 1961.

#### Art. 20.05. Return and Payments

(A) Due Date of Taxes. The taxes imposed by this Chapter are due and payable to the Comptroller quarterly on or before the last day of the month next succeeding each quarterly period.

(B) Method Retailer is to Use in Computing Tax. The limited sales tax levied under Article 20.02 hereof shall be computed and paid to the Comptroller on the basis of two percent (2%) of all receipts from the total sales of such tangible personal property sold by such retailer under said Article.

(C) Return; Time for Filing; Persons Required to File; Signatures; Accounting Basis.

- (1) On or before the last day of the month following each quarterly period of three (3) months, a return for said quarterly period shall be filed with the Comptroller in such form as the Comptroller may prescribe.
- (2) For purposes of the limited sales tax a return shall be filed by every person subject to the tax. For purposes of the use tax a return shall be filed by every retailer maintaining a place of business in the State and by every person who has purchased tangible personal property, the storage, use or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.
- (3) Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.
- (4) A taxpayer who keeps his regular books and records on a cash basis or on an accrual basis, or on any generally recognized accounting basis which correctly reflects the operation of the business, may file the tax returns required by this Chapter on the same accounting basis that is used for the regular books and records.

(D) Contents of Return.

- (1) For the purposes of the limited sales tax, the return shall show the sale or receipts of the retailer or seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total receipts from sales of tangible personal property sold by him during the preceding reporting period which was purchased for the purpose of storage, use or consumption in this State.
- (2) Gross proceeds from taxable rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the Comptroller may prescribe.
- (3) In case of a return filed by the purchaser; the return shall show the total sales price of the tangible personal property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period.
- (4) The return shall also show the amount of the taxes for the period covered by the return and such other information as the Comptroller deems necessary for the proper administration of this Chapter.

(E) Reimbursement to Taxpayer for Collection of Tax; Prepayments. The taxpayer shall deduct and withhold from the taxes otherwise due from him on his quarterly tax return, one per cent (1%) thereof to reimburse himself for the cost of collecting the tax. Provided, however, an additional two per cent (2%) deduction shall be allowed a taxpayer who makes prepayments of his tax liability based upon a reasonable estimate of his tax liability for the quarter in which the prepayment is made. In order for the taxpayer to be entitled to the additional two per cent (2%) discount, the prepayment must be made on or before the fifteenth day of the second month of the calendar quarter for which the payment is made.

A taxpayer making a prepayment of his tax as provided for in this paragraph is not relieved from the filing of quarterly returns as provided for elsewhere in this Chapter. At the time the taxpayer files his quarterly return showing his actual tax liability any prepayments made by the taxpayer shall be credited against his tax liability; in the event that there is tax liability owed by the taxpayer in excess of the prepayment, the taxpayer shall remit such excess at the time of filing his quarterly return and from such excess shall deduct and withhold one per cent (1%) of the amount of the excess. If the tax liability of the taxpayer is less than the prepayment of taxes, the excess of the prepayment shall be recorded as a credit against future tax liability or refunded to the taxpayer as provided for in Article 20.10.

In the event the payment of any taxes due under the applicable provisions of this Chapter are not paid within the time required, or in the event that the taxpayer does not file reports when due as provided by the provisions of this Chapter, the taxpayer forfeits his claim to any discount, including any discount that might have been taken by a taxpayer at the time of making a prepayment.

(F) Return Periods; Quarterly Periods other than Calendar Quarters. The Comptroller, if he deems it necessary in order to insure payment to or facilitate the collection by the State of the amount of taxes due, may require returns and payment of the amount of said taxes for quarterly periods other than calendar quarters, in the case of a particular seller, retailer or purchaser, as the case may be, or for other than quarterly periods.

(G) Delivery of Return: Remittance. The person required to file the return shall deliver the quarterly return together with a remittance of the net amount of the tax due to the office of the Comptroller.

(H) Penalties for Failure to Pay or Report. If any person shall fail to file a report as required herein or shall fail to pay to the Comptroller the tax as imposed herein when said report or payment is due, he shall forfeit five per cent (5%) of the amount due as a penalty, and after the first thirty (30) days he shall forfeit an additional five per cent (5%). Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum, beginning sixty (60) days from the date due.

(I) The Comptroller may promulgate rules and regulations for the simplification of returns required by this Article for those classes of retailers a majority of whose gross receipts constitute sales of tangible personal property exempt from the taxes imposed by this Chapter. Provided, however, nothing herein shall relieve any retailer authorized to use a simplified tax return from any tax liability which may be established by an audit of such retailer's records. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

#### Art. 20.06. Deficiency Determination

(A) Recomputation of Tax; Determination on Discontinuance of Business.

- (1) If the Comptroller is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the State by any person, he may compute and determine the amount required to be paid upon the basis of the facts contained in the

return or returns or upon the basis of any information within his possession or which may come into his possession.

- (2) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in paragraph (D) of this Article as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this Chapter.

(B) Penalty for Fraud, Intent to Evade. If any part of a deficiency for which a deficiency determination is made is due to fraud or an intent to evade this Chapter or authorized rules and regulations, a penalty of twenty-five per cent (25%) of the amount of the determination shall be added thereto.

(C) Notice of Comptroller's Determination; Service.

- (1) The Comptroller shall give to the retailer or person storing, using or consuming tangible personal property written notice of his determination.
- (2) The notice may be served personally or by mail; if by mail, the notice shall be addressed to the retailer or person storing, using or consuming tangible personal property at his address as it appears in the records of the Comptroller.
- (3) In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States post office.

(D) Time Within Which Notice of Deficiency Determination to be Mailed; Consent to Later Mailing of Notice.

- (1) Every notice of a deficiency determination shall be personally served or mailed within three (3) years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed or personally served within three (3) years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.
- (2) The limitation specified in this Article does not apply in case of a limited sales tax proposed to be determined with respect to sales of property for the storage, use or other consumption of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1) and (G) of this Article, and paragraph (B) of Article 20.07. The limitation specified in this Article does not apply in case of an amount of use tax proposed to be determined with respect to storage, use or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1), and (G) of this Article, and paragraph (B) of Article 20.07 and to subparagraph 1 of this paragraph.
- (3) If, before the expiration of the time prescribed in this Article for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed

upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(E) Determination if No Return Made; Estimate and Computation; Discontinuance of Business.

- (1) If any person fails to make a return, the Comptroller shall make an estimate of the receipts of the person, or, as the case may be, of the amount of the total sales, rent or lease price of tangible personal property sold, rented or leased or purchased, by the person, the storage, use or other consumption of which in this State is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the Comptroller's possession or may come into his possession. Upon the basis of this estimate, the Comptroller shall compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to ten per cent (10%) thereof. One or more determinations may be made for one or for more than one period.
- (2) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in paragraph (D) of this Article as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this Chapter.

(F) Offsets; Computation; Interest.

- (1) In making a determination, the Comptroller may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.
- (2) The interest on underpayments shall be computed in the manner set forth in paragraph (G) of Article 20.08.

(G) Notice of Estimate, Determination and Penalty; Service. Promptly after making his determination, the Comptroller shall give to the person written notice of the estimate, determination and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

Overpayments and refunds, see art. 20.-

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Art. 20.07. Jeopardy Determinations

(A) Jeopardy Determination; When Made; Due Date. If the Comptroller believes that the collection of any tax or any amount of tax required to be collected and paid to the State or the amount of any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is due and payable immediately.

(B) Nonpayments; Finality of Determination. If the amount specified in the determination is not paid within twenty (20) days after service of notice thereof upon the person against whom the determination is

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made, the amount becomes final at the expiration of the twenty (20) days unless a petition for redetermination is filed within the twenty (20) days, a delinquency penalty of ten per cent (10%) of the tax or amount of the tax and the interest provided in paragraph (G) of Article 20.08 shall attach to the amount of the tax or the amount of the tax required to be collected.

(C) **Petition for Redetermination; Deposit of Security.** The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to paragraphs (A) through (G) of Article 20.08. He shall, however, file the petition for redetermination with the Comptroller within twenty (20) days after the service upon him of notice of determination. The person shall also within the twenty-day period, deposit with the Comptroller such security as the Comptroller may deem necessary to insure compliance with this Chapter. The security may be sold by the Comptroller in the manner prescribed by paragraph (A), Article 20.09. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

**Art. 20.08. Petition for Redetermination****(A) Time to File.**

- (1) Any person against whom a determination is made under paragraphs (A) through (G) of Article 20.06, or any person directly interested, may petition for a redetermination within thirty (30) days after service upon the person of notice thereof.
- (2) If a petition for redetermination is not filed within the thirty-day period, the determination becomes final at the expiration of the period.

**(B) Oral Hearing; Notice; Continuances.**

- (1) If a petition for redetermination is filed within the thirty-day period, the Comptroller shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him twenty (20) days' notice of the time and place of the hearing.
- (2) The Comptroller may continue the hearing from time to time as may be necessary.

(C) **Increase, Decrease and Amount of Determination.** The Comptroller may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the Comptroller at or before the hearing, upon which the petitioner shall be entitled to a thirty-day continuance of the hearing to allow him to obtain and produce further evidence applicable to the items upon which the increase is based.

(D) **Order of Comptroller on Petition for Redetermination; Finality of Order.** The order or decision of the Comptroller upon a petition for redetermination becomes final thirty (30) days after service upon the petitioner of notice thereof.

(E) **Due Date of Determinations; Penalties.** All determinations made by the Comptroller under paragraphs (A) through (G) of Article 20.06 are due and payable twenty (20) days after the time they become final. If they are not paid when due and payable, a penalty of ten per cent (10%) of the amount of the determination, exclusive of interest and penalties, shall be added thereto.



(F) Service of Notice. Any notice required by paragraphs (A) through (E) of this Article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(G) Interest for Failure to Pay Tax; Amount; Rates. Any person who fails to pay any tax to the State or any amount of tax required to be collected and paid to the State within the time required, shall pay, in addition to the tax or amount of tax, interest at the rate of six per cent (6%) per annum, beginning sixty (60) days from the date on which the tax or the amount of tax required to be collected became due and payable to the State until the date of payment. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

#### Art. 20.09. Collection of Tax

(A) Notice of Delinquency to Persons Holding Credits or Property of Delinquent; Transfer or Disposition of Property or Debt after Notice; Bank Deposits.

- (1) If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the Comptroller may, not later than three (3) years after the payment became delinquent or within three (3) years after the last recording of a lien, give notice thereof personally or by registered mail to all persons, including any officer or department of the State or any political subdivision or agency of the State, having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent, or persons owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any State officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Comptroller.
- (2) After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the Comptroller consents to a transfer or disposition, or until sixty (60) days elapse, after receipt of the notice, whichever period expires earlier.
- (3) All persons so notified shall, within twenty (20) days after receipt of the notice, advise the Comptroller of all such credits, other personal property, or debts in their possession, under their control, or owing by them.
- (4) If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, in order to be effective, shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held.
- (5) If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the

extent of the value of the property or the amount of the debts thus transferred or paid, he shall be liable to the State for any indebtedness due under this Chapter from the person with respect to whose obligation the notice was given.

(B) Action for Collection of Tax, Penalties, Interest; Limitation. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, or within three (3) years after the last recording of a lien, the Comptroller may bring an action in the courts of this State, on any other State, or of the United States, in the name of the people of the State of Texas, to collect the amount delinquent together with penalties and interest.

(C) Attorney General to Prosecute Action. The Attorney General shall prosecute the action, and the Rules of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals shall be applicable to the proceedings.

(D) Issuance of Writ of Attachment Without Bond, Affidavit. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

(E) Evidentiary Effect of Delinquency Certificate. In the action a certificate by the Comptroller showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of the tax, of the delinquency of the amounts set forth, and of the compliance by the Comptroller with all the provisions of this Chapter in relation to the computation and determination of the amounts.

(F) Action for Use Tax; Manner of Service of Process. In any action relating to the use tax brought under this Chapter, process may be served according to the Rules of Civil Procedure or may be served upon any agent or clerk in this State employed by any retailer in a place of business maintained by the retailer in this State. In the latter case, a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office.

(G) Judgment for Taxes.

(1) Comptroller May Sue. If any amount required to be paid to the State under this Chapter is not paid when due, the Comptroller may, within three (3) years after the amount is due, file in a court of competent jurisdiction in Travis County, Texas, or any county where the person owing the tax may be a resident or have a place of business, an action for recovery of such tax, together with any penalties and interest. Such action shall be in the form of an action for debt, and the certificate of the Comptroller or his duly authorized agent that the tax is due, specifying the amount due together with penalty and interest, shall be prima facie evidence of the justness and correctness of such claim by the State. Service may be had according to the provisions of Article 20.09, paragraph (F) of this Chapter.

(2) Judgments May Be Abstracted. Any judgment obtained in favor of the State by an action brought under this Article may be filed for record with the county clerk of any county in this State and when so filed, shall constitute a lien upon all of the real property in the county owned by the person named as defendant in the judgment or thereafter acquired by him. Such

lien shall have the force and effect of a judgment lien for ten (10) years from the date of judgment, unless sooner released or discharged.

- (3) Release. Upon payment in full of the amount of any judgment obtained under this Article, the Comptroller may issue a release of any such judgment lien. Prior judgments for taxes and penalties shall not bar subsequent suit by the Comptroller for additional taxes, or penalties or interest accruing after any such prior judgment, provided such suits are instituted within three (3) years after such taxes are due.
- (4) Execution. Execution may issue upon any judgment obtained under this Article in the same manner as execution may issue in other judgments for debt, and sale shall be held under such execution as prescribed in the Rules of Civil Procedure and Statutes of this State.

(H) Seizure and Sale.

- (1) Seizure and Sale. At any time within three (3) years after any person is delinquent in the payment of any amount, the Comptroller may forthwith collect the amount in the following manner: The Comptroller shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties on account of the seizure and sale. Any seizure made to collect a sales tax due shall be only of property of the vendor not exempt from execution under the laws of this State.
- (2) Notice of Sale. Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least twenty (20) days before the date set for the sale in the following manner: The notice shall be enclosed in an envelope addressed to the person, in case of a sale for limited sales tax due, at his last known address or place of business, and in case of a sale for use taxes due, at his last known residence or place of business in this State. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least ten (10) days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three (3) public places in the county twenty (20) days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with the law and the notice.
- (3) Bill of Sale; Deed. At the sale, the Comptroller shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may

be left at the place of sale at the risk of the person liable for the amount.

- (4) **Disposition of Proceeds.** If upon the sale the moneys received exceed the total of all amounts, including interest, penalties, and costs due the State, the Comptroller shall return the excess to the person liable for the amounts and obtain his receipt. If any person having an interest in or lien upon the property files with the Comptroller prior to the sale notice of his interest or lien, the Comptroller shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Comptroller shall deposit the excess moneys with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors, or assigns.

**(I) Payment on Termination of Business and Successor's Liability.**

- (1) **Withholding by Purchaser.** If any vendor liable for any amount under this Chapter sells out his business or stock of goods or quits the business, his successor or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Comptroller showing that it has been paid or a certificate stating that no amount is due.

- (2) **Liability of Purchaser; Release.** If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety (90) days after receiving the request, the Comptroller shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Comptroller of the amount that must be paid as a condition of issuing the certificate. Failure of the Comptroller to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the vendor sells out his business or stock of goods or at the time that the determination against the vendor becomes final, whichever event occurs the later. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1

Emergency. Effective Sept. 1, 1961.

**Art. 20.10. Overpayments and Refunds**

**(A) Certification of Excess Amount Collected: Credit and Refund.** If the Comptroller determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Comptroller shall set forth that fact in his records, and the excess amount collected or paid may be credited on any amount then due and payable from the person under this Chapter. Any balance may be refunded to the person by whom it was paid, or his successors, administrators or executors.

**(B) Claims for Refund, Credit: Limitation.**

- (1) No refund shall be allowed unless a claim therefor is filed with the Comptroller by the person who overpaid the tax or his attorney, assignee, executor, or administrator, within three (3) years from the last day of the month following the close of the quarterly period for which the overpayment was made, or within six (6) months after any determination becomes final under paragraph (A) through (G) of Article 20.06 or within six (6) months from the date of overpayment with respect to such determinations, whichever of these three (3) periods expires the later.
- (2) No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Comptroller within such period, or unless the credit relates to a period for which a waiver is given pursuant to paragraph (D) under Article 20.06.

**(C) Credit or Refund for Use Tax; Reimbursement of Retailer for Limited Sales Tax.** No credit or refund of any amount paid pursuant to paragraphs (A) through (L) of Article 20.03 shall be allowed on the ground that the storage, use or other consumption of the tangible personal property is exempted under Article 20.04 unless the person who paid the amount reimburses his retailer for the amount of the limited sales tax imposed upon his vendor with respect to the sale of the tangible personal property and paid by the vendor to the State.

**(D) Claim for Refund, Credit: Form: Contents.** Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

**(E) Effect of Failure to File Claim: Waiver.** Failure to file a claim within the time prescribed in paragraph (B) of this Article constitutes a waiver of any demand against the State on account of overpayment.

**(F) Notice of Disallowance of Claim: Service.** Within thirty (30) days after disallowing any claim in whole or in part, the Comptroller shall serve notice of his action on the claimant in the manner prescribed for service of notice of a deficiency determination.

**(G) Injunction: Other Process to Prevent Tax Collection Prohibited.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected.

**(H) Action for Refund: Claim as Condition Precedent.** No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

**(I) Action for Refund; Time to Sue; Venue of Action; Waiver.**

- (1) Within ninety (90) days after the mailing of the notice of the Comptroller action upon a claim filed pursuant to this Chapter, the claimant may bring an action against the Comptroller on the grounds set forth in the claim in a court of competent jurisdiction in Travis County, Texas, for recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

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(2) Failure to bring action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayment.

(J) Right of Action on Failure to Mail Notice. If the Comptroller fails to mail notice of action on a claim within six (6) months after the claim is filed, the claimant may, prior to the mailing of notice by the Comptroller of his action on the claim, consider the claim disallowed and bring an action against the Comptroller on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(K) Judgment for Plaintiff: Credits: Refund of Balance.

(1) If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited as follows:

(a) If the judgment is for a refund of taxes, it shall be credited on any limited sales or use tax or amount of use tax due from the plaintiff.

(b) If the judgment is for a refund of use taxes, it shall be credited on any use tax or amount of use tax due from the plaintiff under this Chapter.

(2) The balance of the judgment shall be refunded to the plaintiff.

(L) Allowance of Interest. In any judgment, interest shall be allowed at the rate of six per cent (6%) per annum upon the amount found to have been illegally collected from the date of payment of the amount to date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than thirty (30) days, the date to be determined by the Comptroller.

(M) Recovery of Erroneous Refunds: Action: Jurisdiction and Venue. The Comptroller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought, within one (1) year from the date of refund or credit, in the name of the State, in a court of competent jurisdiction in the county in which the person involved is located.

(N) Change of Venue in Action to Recover Erroneous Refund. The action shall be tried in the county in which the person involved is a resident unless the court with the consent of the Attorney General orders a change of place of trial.

(O) Attorney General to Prosecute Action for Recovery of Erroneous Refund. The Attorney General shall prosecute the action, and the provisions of State law and the Rules of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

**Art. 20.11. Administration**

(A) Enforcement by Comptroller: Rules and Regulations.

(1) The Comptroller shall enforce the provisions of this Chapter and may prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of this Chapter.

(2) The Comptroller may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(B) Employment of Accountants, Investigators and other Persons: Delegation of Authority. The Comptroller may employ accountants, auditors, investigators, assistants and clerks necessary for the efficient administration of this Chapter and may delegate authority to his representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by this Chapter.

(C) Records to be Kept by Sellers, Retailers and Others.

- (1) Every seller, every retailer, and every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the Comptroller may reasonably require.
- (2) Every such seller, retailer or person shall keep such records for not less than three (3) years from the making of such records unless the Comptroller in writing sooner authorizes their destruction.

(D) Examination of Records: Investigation of Business. The Comptroller, or any person authorized in writing by him, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

(E) Taxpayer's Right to Keep Records out of State. The taxpayer shall have the right to keep or store his records at a point outside this State, but, if the Comptroller wishes to examine said records, the taxpayer shall either bring the records into the State for such examination or shall reimburse the Comptroller for the increased expense of making the examination at the out-of-state location.

(F) Reports for Administering Use Tax: Contents. In administration of the use tax, the Comptroller may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, the storage, use or other consumption of which is subject to the tax. The report shall:

- (1) Be filed when the Comptroller requires.
- (2) Set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the Comptroller may require.

(G) Disclosure of Information Unlawful: Examination of Records.

- (1) It shall be a misdemeanor for any official or employee of the Comptroller to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Comptroller.

However, the Comptroller may, by general or special order, authorize examination by other State officers, by tax officers of another state, by the Federal Government, if a reciprocal ar-

...rangement exists, or by any other person of the records maintained by the Comptroller under this Chapter.

Nothing herein contained shall be construed to prevent: The delivery to a taxpayer, or his duly authorized representative, of a copy of any report or other paper filed by him pursuant to the provisions of this Chapter; the publication of statistics so classified as to prevent the identification of a particular report and the items thereof; the use of such records, reports, or information secured, derived, or obtained by the Attorney General or the Comptroller under the terms of this Chapter in any action against the same taxpayer for a penalty or any tax due under any provision of this Chapter.

- (2) Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

**Art. 20.12. Violations**

(A) Penalty for Engaging in Business as Seller Without Permit. A person who engages in business as a retailer in this State without a permit or permits or after a permit has been suspended, and each officer of any corporation which so engages in business, is guilty of a misdemeanor, and such person shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction. Each day of such operation shall constitute a separate offense.

(B) Penalty for Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor, and such person shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction.

(C) Penalty for Failure to Make Return, Furnish Data. Any retailer or other person who refuses to furnish any return required to be made, or who refuses to furnish a supplemental return or other data required by the Comptroller, shall be guilty of a misdemeanor, and shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction.

(D) Penalty for other Violations. Any violation of this Chapter, except as otherwise provided, is a misdemeanor, and any person shall, when found guilty of such violation, be fined not more than Five Hundred Dollars (\$500) for each violation.

(E) Statute of Limitations. Any prosecution for violation of any of the penal provisions of this Chapter shall be instituted within three (3) years after the commission of the offense. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

Resale certificates, improper use see art. 20.03(D).

Unlawful advertising, assumption or absorption of use tax by retailers, see art. 20.03(C, D).



## Art. 20.13. Disposition of Proceeds

All fees, taxes, interest and penalties imposed, and all amounts of tax required to be paid to the State under this Chapter shall be paid to the Comptroller in the form of remittances payable to the Comptroller of Public Accounts of Texas. The Comptroller shall remit all fees, taxes, interest and penalties collected under this Chapter to the State Treasurer to be deposited in the State Treasury to the credit of the General Revenue Fund. Amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

## Art. 20.14. Remedies of State are Cumulative

The remedies of the State provided for in this Chapter are cumulative and no action taken by the Comptroller or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this Chapter. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

## Art. 20.15. Comptroller's Authority

In all proceedings under this Chapter the Comptroller may act for and on behalf of the people of the State of Texas. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

## Art. 20.16. Res Judicata

In the determination of any case arising under this Chapter the rule of res judicata is applicable only if the liability involved is for the same quarterly period as was involved in another case previously determined. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

## Art. 20.17. Tax Suit Comity

The courts of this State shall recognize and enforce liabilities for sales and use taxes lawfully imposed by any other state, provided that such other state extends a like comity to this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1.

Emergency. Effective Sept. 1, 1961.

## CHAPTER 21—ADMISSION TAX

## Art. 21.04 Penalties

(1) In the event any person, firm, association of persons, or corporation who operates any place of amusement as designated in this Chapter upon which an admission tax is due shall fail or refuse to pay said tax to the Treasurer of this State on or before the date provided in this Chapter, he shall forfeit to the State of Texas not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) for each violation, and each day's delinquency shall constitute a separate offense. Provided that in addition to the penalties shown, if any person, firm, association of persons, or corporation shall fail to pay said tax or file such report as required by this Chapter when the same shall be due, he shall forfeit five per cent (5%) of the amount of the tax due as a penalty, and after the first thirty (30) days, he shall forfeit an additional five per cent (5%) of

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such tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. Venue for the collection of such penalties by suit shall be in Travis County, Texas. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 15.

Emergency. Effective Sept. 1, 1961.

**CHAPTER 23—HOTEL OCCUPANCY TAX**

Art.

23.07 Penalties [New].

**Art. 23.07. Penalties**

If any person shall fail to file a report as required herein or shall fail to pay to the Comptroller the tax as imposed herein when said report or payment is due, he shall forfeit five per cent (5%) of the amount due as a penalty, and after the first thirty (30) days he shall forfeit an additional five per cent (5%) of such tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 23.07 added Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. VII, § 2.

Emergency. Effective Sept. 1, 1961.

**TITLE 123—TIMBER**

**Art. 7362. [7729] [5246]. Written report to be filed**

*Repeal of fee provisions, see art. 3930a, note.*

### TITLE 125A—TRUSTS AND TRUSTEES

**Art. 7425b—6. Active trust valid**

Real estate investment trust act, see art. 6138A.

**Art. 7425b—25. Powers, duties, and responsibilities of trustees**

L. Unless the instrument creating the trust provides to the contrary, the trustee of any trust created after the effective date of this amendment shall be required to give bond payable to all persons interested in the trust as their interest may appear, conditioned for the faithful performance of the duties as trustee, to be in such amount and with such surety or sureties as the District Court shall, by order entered in a proceeding brought for such purpose, direct and approve. If the proceeding be brought by the person named as trustee, citation in respect thereof shall not be necessary, but the proceeding may be upon ex parte verified petition showing the nature and probable value of the trust estate, and the District Court may, in term time or vacation, hear the application and enter such order in respect thereof as the court shall deem proper. If the proceeding be brought by some other person interested in the estate, citation shall issue, as required by law, to the trustee, unless such citation be expressly waived in writing. Any bond made pursuant to the provisions of this Subsection L shall be subject to increase, decrease, or the substitution or addition of another surety or other sureties upon order of the District Court in an action brought by any person interested in the trust estate, as in Section 24 hereof provided. Any bond made pursuant to the terms of this Subsection shall be deposited with the Clerk of the District Court in which the order shall have been entered, and suit may be maintained on a certified copy thereof, provided that any recovery thereon shall, upon appropriate proof by the surety or sureties, reduce their liability on such bond pro tanto. Failure to comply with the provisions of this paragraph shall not render void or voidable, or otherwise affect, any act or transaction of the trustee with any third person.

Provided, however, that this Subsection shall not apply to corporate trustees which are authorized by law to act as trustee of any trust affected by this Act. As amended Acts 1961, 57th Leg., p. 44, § 3.

Effective 90 days after May 29, 1961,  
date of adjournment.

State banks, powers, see art. 342—301.

Corporate fiduciary, definition, see V.A.  
T.S. Probate Code, § 3(d).

Title insurance companies, transfer of  
fiduciary business to state banks, see V.A.  
T.S. Insurance Code, art. 9.01—1.

### TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

**Art. 7426. [7796] "Trusts"**

Stock insurers, merger or consolidation,  
see V.A.T.S. Insurance Code, art. 21.25.

Tex.St.Supp.1962—42

## TITLE 128—WATER

## I. IRRIGATION AND WATER RIGHTS

## CHAPTER ONE—USE OF STATE WATER

Art.	4. POLLUTION	Art.	7621c. Preventing pollution of underground water; registration of well drillers. [New].
7621b.	Injection wells for industrial and municipal waste [New].	7621d.	State water pollution control [New].

## 1. PUBLIC RIGHTS

## Art. 7466. [4991] [3115] Public Rights

Effect of state water pollution control law on power or authority of river authorities and water districts, see art. 7621d, § 14 (2nd par.).

## Art. 7466i. Sabine River Compact

## Section 1.

## ARTICLE VII.

(c) The Texas members shall be appointed by the Governor for a term of six years; provided, however, that one of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one such member shall be appointed each three (3) years for the regular term. One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four (4) years; provided that the first member so appointed shall serve until June 30, 1958. Each state member shall hold office subject to the laws of his state or until his successor has been duly appointed and qualified. As amended Acts 1961, 57th Leg., p. 31, ch. 19, § 1; Acts 1961, 57th Leg., p. 381, ch. 192, § 1.

Emergency. Effective May 22, 1961.

Sec. 2. The Governor shall, with the advice and consent of the Senate, appoint two (2) members, who shall represent the State of Texas on the Administration provided for by Article VII of the Sabine River Compact, and who shall have the powers and discharge the duties prescribed by the terms of said Compact. Each member shall serve for a term of six (6) years from and after the date of his appointment and until his successor, who shall serve for a like term, is appointed and qualified; provided, however, that one (1) of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the term of such members, and thereafter one (1) such member shall be appointed every three (3) years for the regular term. Such members, so appointed, shall take oath of office as prescribed by the Constitution and, in addition thereto, they shall take oath to perform faithfully the duties incumbent upon them as such members. The members shall receive as fees of office the sum of Twenty-Five (\$25.00) Dollars for each day of service necessary to discharge their duties under said Compact, plus ac-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tual expenses in the discharge of their duties under said Compact. The members shall have authority to meet and confer with the Louisiana members of the Administration at such points within the States of Texas and Louisiana, and elsewhere, as the Administration may see fit. They may make such investigations and appoint such engineering, legal and clerical aid as may be necessary to protect the interest of the State of Texas and to carry out and enforce the terms of said Compact. They may incur necessary office expenses and other expenses incident to the proper performance of their duties and the proper administration of the provisions of the Sabine River Compact. As amended Acts 1961, 57th Leg., p. 31, ch. 19, § 2.

Emergency. Effective March 10, 1961.

Section 3 of the Acts 1961, 57th Leg., p. 31, ch. 19, provided: "It shall be the duty of the Governor of Texas to notify the Governor of Louisiana and the President of the United States of the amendment by the

State of Texas of the Sabine River Compact; on request of the Governor, the Secretary of State shall furnish to the Governor of Louisiana and to the President of the United States a certified copy of this Act."

## 2. BOARD OF WATER ENGINEERS

### Art. 7517. Recording fee

*Repeal of fee provisions, see art. 3930a, note.*

### Art. 7531. Rules and regulations; seal; enforcement of rules and conditions of permits and declarations of appropriations

Permits to dull injection wells for industrial and municipal wastes, see art. 7621b.

### Art. 7537a. Survey of underground water supply

The Board of Water Engineers of the State of Texas is authorized and empowered to make and have made studies and investigations of and reports on the physical characteristics of water-bearing formations and the sources, occurrence, quantity and quality of the underground water supply of the State of Texas, together with studies and investigations of and reports on feasible methods to conserve, preserve, improve the quality of and supplement said supply. Such work shall be first undertaken by said Board in the territories where, in their judgment, the greatest need therefor exists, and in determining said need, said Board shall look to the interest and welfare of domestic and municipal uses, commercial uses, irrigation uses and all other beneficial uses which, in their judgment, are essential to the general welfare of the state. Such work may include investigation and exploration of water-bearing formations by coring or other mechanical or electrical means or by contracting therefor when the area to be investigated has an influence on water resources which is more than local in character; provided that nothing herein shall be construed to authorize the Board to drill wells or contract for wells to be drilled for the purpose of supplying water, and drilling for such purposes is hereby expressly prohibited. As amended Acts 1961, 57th Leg., p. 1016, ch. 443, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Art. 7537b. Natural pollution of tributaries of Red River; study of causes and means of elimination

Preventing pollution of underground water, registration of well driller, see art. 7621c.

### 3. REGULATION OF USE

Art. 7577. Repealed. Acts 1961, 57th Leg., 1st C.S., p. 156, ch. 42, § 14. Eff. Nov. 1, 1962

See, now, art. 7621d.

Injection wells for industrial and municipal waste, see art. 7621b.

Preventing pollution of underground water, registration of well drillers, see art. 7621c.

### 4. POLLUTION

Art. 7621a. Repealed. Acts 1961, 57th Leg., 1st C.S. p. 156, ch. 42, § 14. Eff. Nov. 1, 1962

See, now, art. 7621d.

Art. 7621b. Injection wells for industrial and municipal waste

#### Definitions

Section 1. For the purposes of this Act, the term

(a) "Board" shall mean the Board of Water Engineers of the state or its successors.

(b) "Person" shall mean and include any individual, firm, corporation, association, partnership, municipality, political subdivision of the state, or agency of the State of Texas or of the United States.

(c) "Commission" shall mean the Railroad Commission of Texas or its successors.

(d) "Pollution" means such contamination or other alteration of the physical, chemical or biological properties of water as to render such water harmful, detrimental or injurious to public health, safety or welfare, or to legitimate beneficial use.

(e) "Industrial and municipal waste" is any liquid, gaseous, solid or other waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, or resulting from the disposal of sewage or other wastes of cities, towns, villages, communities, water districts and other municipal corporations, which may cause or might reasonably be expected to cause pollution of fresh water.

(f) "Fresh waters" are waters whose bacteriological, physical and chemical properties are such that they are suitable and feasible for beneficial use for the purposes permitted by law.

(g) "Casing" is the tubular material utilized to shut off strata between the earth's surface and the lowest point downward at which the base of the casing is set.

(h) "Injection well" is an artificial excavation or opening into the ground, made by means of digging, boring, drilling, jetting, driving or otherwise, and made for the purpose of injecting, transmitting, or disposing of industrial and municipal waste into a subsurface stratum. An injection well shall also include wells initially drilled for the purpose of producing oil and gas when used for the purpose of transmitting, inject-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ing, or disposing of industrial and municipal waste into a subsurface stratum. An injection well shall not include any surface pit, excavation or natural depression used to dispose of industrial and municipal waste.

**Industrial and municipal wastes; permits from board of water engineers; inspection of location; hearing**

Sec. 2. Before any person shall commence the drilling of an injection well, or before any person shall convert any existing well into an injection well, for the purpose of disposing of industrial and municipal waste, other than salt water or other waste arising out of or incidental to the drilling for or the producing of oil or gas, a permit therefor shall be obtained from the Board of Water Engineers of the State of Texas. The Board shall prepare suitable forms for making such application which shall be available upon request without cost. The Board shall require the furnishing of such information by an applicant as the Board may deem necessary to discharge properly the duties imposed by this Act. Any application for a permit to drill such injection well, or to convert any existing well to such injection well, shall be accompanied by a fee of Twenty-five Dollars (\$25.00) which shall be collected by the Board for the benefit of the state. Upon receipt by the Board of an application in proper form and accompanied by the necessary fee for a permit to drill such injection well, or to convert an existing well to such injection well, the Board shall cause an inspection to be made of the location of the proposed injection well to determine local conditions and the probable effect of such injection well. The Board may hold a public hearing upon such application if it is deemed necessary and in the public interest. Notice of such public hearing and its procedure shall be under such terms and conditions as the Board may prescribe.

**Salt water or other wastes from oil drilling; permits from railroad commission; hearing**

Sec. 2-a. Before any person shall commence the drilling of an injection well, or before any person shall convert any existing well into an injection well, for the purpose of disposing of salt water or other waste arising out of or incidental to the drilling for or the producing of oil or gas, a permit therefor shall be obtained from the Railroad Commission of Texas. The Commission shall require the furnishing of such information by an applicant as the Commission may deem necessary to discharge properly the duties imposed by this Act and shall promulgate such regulations or orders as to notice and hearing as may be deemed proper and necessary.

**Letter from railroad commission; contents**

Sec. 2-b. Any person applying to the Board for a permit to inject industrial and municipal waste, other than salt water or other waste arising out of or incidental to the drilling for or the producing of oil or gas, into a subsurface stratum shall submit with such application a letter from the Commission stating that the drilling of such injection well and the injection of such industrial and municipal waste into such subsurface stratum will not endanger or injure any oil or gas formation.

**Letter from board of water engineers; contents; filing of log**

Sec. 2-c. Any person applying to the Commission for a permit to inject salt water or other waste arising out of or incidental to the drilling for or the producing of oil or gas into a subsurface stratum shall submit with such application a letter from the Board stating that the drilling of

such injection well and the injection of such salt water or other such waste into such subsurface stratum will not endanger the fresh water strata in that area and that the formation or strata to be used for such salt water or other such waste disposal are not fresh water sands. The Commission shall, if requested by the Board, require the filing of a log of such injection well.

#### Filing copy of permit

Sec. 2-d. Any person receiving a permit to inject industrial and municipal waste, shall, before injection operations are begun, file a copy of such permit with the County Pollution Control Officer of the county where the well is located. If there is no County Pollution Control Officer, the copy of the permit shall be filed with the County Health Officer.

#### Issuance of permit; terms; casing of well; conversion of existing well; rules and regulations

Sec. 3. If the Board or Commission as the case may be finds that the installation of such injection well is in the public interest, will not impair any existing rights, and that by requiring proper safeguards both ground and surface fresh waters can be protected adequately from pollution, the Board or Commission may grant the application in whole or in part and issue a permit with such terms, provisions, conditions and requirements as are reasonably necessary to protect fresh waters from pollution by industrial and municipal waste. Specifically, the Board or Commission shall require that the injection well shall be so cased as to protect all fresh waters from pollution by the intrusion of industrial and municipal waste. The casing shall be set at such depth, with such materials, and in such manner as the Board or Commission may require. In establishing the depth to which casing shall be installed, the Board or Commission shall give consideration to known geological and hydrological conditions and relationships, to foreseeable future economic development in the area, and the foreseeable future demand for the use of such fresh waters in the locality. The Board or Commission may also require the permittee to keep and furnish a complete and accurate record of the depth, thickness and character of the different strata penetrated in the drilling of such a well. In the event an existing well is to be converted to an injection well, the Board or Commission may require that the applicant furnish an electric log or a drilling log of such existing well. A copy of every permit issued by the Board shall be furnished by the Board to the Commission, and a copy of every permit issued by the Commission shall be furnished by the Commission to the Board. The Board shall adopt rules, regulations and procedures reasonably required for the performance of the duties, powers and functions prescribed by this Act in accordance with Section 1, Chapter 356, Acts of the 53rd Legislature, 1953, codified as Article 7531. The Commission shall adopt rules, regulations and procedures reasonably required for the performance of the duties, powers and functions prescribed by this Act and by the laws governing the Railroad Commission of Texas.

#### Penalties

Sec. 4. Any person who fails to comply with the provisions of this Act, or to any reasonable rule or regulation promulgated by the Board, or to any term, condition or provision in his permit, shall be guilty of a misdemeanor and shall be fined in any sum not exceeding One Hundred Dollars (\$100.00), or shall be imprisoned in jail not more than thirty (30) days, or by both such fine and imprisonment, and each day that such non-compliance shall continue shall constitute a separate offense. Full



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authority is also given the Board or Commission to enforce by injunction, mandatory injunction or other appropriate remedy, in courts having jurisdiction in the county where the offending injection well is located, any and all reasonable rules and regulations promulgated by it which do not conflict with any law, and all of the terms, conditions and provisions of permits issued by the Board pursuant to the provisions of this Act. The obtaining of a permit under the provisions of this Act by any person, firm or corporation shall not act to relieve such person, firm or corporation from liability under any statutory law or the Common Law. Acts 1961, 57th Leg., p. 159, ch. 82.

Effective 90 days after May 29, 1961, date of adjournment.

Board of water engineers, enforcement of rules and conditions of permits, see art. 7531.

Oil and gas wells, pollution of streams, see art. 535L.

Polluting public body of water, see art. 4444.

Public water supplies, protection, see art. 4477-1, § 11.

Punishment for pollution of lake or reservoir, see art. 7577.

Red River, natural pollution of tributaries, see art. 7537b.

Water control and improvement districts, powers for disposal of wastes, see art. 7880-3a.

#### Art. 7621c. Preventing pollution of underground water; registration of well drillers

##### Definitions

Section 1. The following words and phrases as used in this Act shall have the following meanings unless a different meaning clearly appears from the context. The singular form shall also mean the plural form. The masculine gender shall also mean the feminine and neuter genders.

(a) "Person" shall mean any person, firm, partnership, association, corporation, or any other group or combination acting as a unit.

(b) "Board" shall mean the State Board of Water Engineers, or its successor.

(c) "Water Well" shall mean any artificial excavation constructed for the purpose of producing ground water. The term, however, shall not include any hand-dug or drive point water well or test or blast holes in quarries or mines, or any well or excavation for the purpose of exploring for, or producing oil, gas, or any other mineral.

(d) "Water Well Driller" shall mean any person who engages for compensation in the drilling, boring, coring, or construction of any water well in this State. The term, however, shall not include any person who drills, bores, cores, or constructs a water well on his own property or for his own use.

(e) "Registered Water Well Driller" shall mean any person who holds a certificate from the State Board of Water Engineers as a Registered Water Well Driller.

(f) "Pollution" shall mean an impairment of the physical, chemical or biological properties of water by the acts or instrumentalities of man to a degree which results in a material and adverse effect upon any consumptive or beneficial use of such waters.

(g) "Well Log" shall mean a log accurately kept at the time of drilling of the depth, thickness and character of the different strata penetrated and location of water-bearing strata together with other data required on forms prescribed by the Board.

(h) "Water Well Drillers Board" shall mean an advisory board consisting of seven (7) members appointed by the State Board of Water Engineers as hereinafter provided.

#### Registration Required

Sec. 2. (a) It shall be unlawful for any person to drill, bore, core, or construct any water well in this State for compensation, without first registering with the State Board of Water Engineers and securing a certificate of registration as a registered water well driller.

(b) Application for a certificate of registration shall be in writing and in the form prescribed by the Board. The application shall give the business residence and permanent mailing address of the applicant and shall contain such further relevant information as the Board may require.

(c) At the time of making application, each applicant shall pay to the Board the sum of Twenty-five Dollars (\$25) as a registration fee.

(d) All certificates of registration issued under this Act shall expire on August 31st of each year, and on or before that date, each person holding a certificate of registration shall pay to the Board the sum of Twenty-five Dollars (\$25) as an annual registration renewal fee.

(e) A certificate of registration shall not be transferable or assignable.

(f) A certificate of registration to replace a certificate, lost, destroyed or mutilated shall be issued by the Board upon the payment of a fee of One Dollar (\$1).

(g) Any person actively engaged in business in this State as a water well driller on the effective date of this Act shall be entitled to a certificate of registration upon the filing of an application and the payment of a registration fee as provided herein.

#### Reciprocity

Sec. 3. The Board, upon application therefor and the payment of a fee of Twenty-five Dollars (\$25), may issue a certificate of registration as a Registered Water Well Driller to any person who holds a certificate of qualification or registration issued to him by proper authority of any state or territory or possession of the United States, or of any country, if the registration for the requirement of Registered Water Well Driller under which said certificate of registration was issued does not conflict with the provisions of this Act and is of a standard not lower than that specified by the provisions of this Act, and if that particular state, territory or possession of the United States, or country, extends similar privileges to the persons registered under the provisions of this Act.

#### Reporting of Well Logs

Sec. 4. (a) Every registered water well driller drilling, deepening or taking logs of a water well within this State, shall make and keep, or cause to be made and kept, a legible and accurate water well log thereof, and within sixty (60) days from the completion or cessation of drilling, deepening or logging of such water well, deliver or transmit by certified mail to the Board, on forms prescribed by the Board, a sworn copy of such water well log.

#### Rules and Regulations

Sec. 5. The Board of Water Well Drillers shall constitute an Advisory Committee to the Board. This Advisory Committee shall furnish such information, assistance, and advice as the Board shall request. Provided

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however, this Act shall not be inconsistent with the Constitution and Laws of this State or with the rules and regulations of any underground water conservation districts that have been or may hereafter be duly created under Article 7880-3(c), Revised Civil Statutes of Texas, as amended, or the Acts of the Fifty-third Legislature of Texas, page 17, Chapter 10.

#### Water Well Drillers Board

Sec. 6. The Board of Water Engineers shall appoint the seven-member Water Well Drillers Board as follows, to wit:

(a) One (1) member of the Board of Water Engineers to be selected by its Chairman.

(b) One (1) member from the State Department of Health to be selected by the Commissioner of Health.

(c) Five (5) registered water well drillers under the following conditions, to wit:

(1) Each such driller to have a minimum of ten (10) years experience in water well drilling prior to his appointment.

(2) Each such driller to be a citizen of the State of Texas.

(3) One (1) of each such drillers shall be selected from the following geographic areas of the State of Texas:

- A. Gulf Coast Area.
- B. Trans-Pecos Area.
- C. Central Texas Area.
- D. North-East Texas Area.
- E. Panhandle-South Plains Area.

(d) The Board shall not appoint to the Water Well Drillers Board more than one (1) person who is employed by, or owns an interest in, a company or business association which is engaged in any phase of the water well drilling business.

(e) The five (5) water well driller members herein provided shall be appointed for the following terms: The initial appointments of two (2) members shall expire September 15, 1963. The initial appointments of two (2) other members shall expire September 15, 1965. The initial appointment of the remaining one (1) member shall expire September 15, 1967. All regular appointments shall be for terms of six (6) years. The terms of members shall begin on September 16th of odd-numbered years. The initial appointments of the five (5) members shall be made immediately following the effective date of this Act.

(f) Members of the Water Well Drillers Board shall serve without additional compensation but may receive from the State Agencies they serve traveling expenses as otherwise provided by law.

#### Revocation of Certificates of Registration

Sec. 7. The certificate of registration of any registered water well driller who violates any provision of this Act or any rule or regulation promulgated by the Board under the authority of this Act may be revoked by the Board.

The provisions requiring a license for a water well driller under the terms of this Act may be suspended in "drought disaster areas," when declared such by the County Commissioners Court of each county concerned and by proclamation of the Governor of Texas.

### Appeal

Sec. 8. Any person whose certificate of registration is revoked by the Board shall have the right to file suit in the District Court of the county of his residence against the Board, as defendant, to set aside the order revoking such certificate of registration. The suit shall be tried de novo as such term is commonly used in an appeal from justice court to the county court, and the substantial evidence rule shall have no application in such appeal.

In all appeals prosecuted in any of the courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this Section.

### Disposition of Revenues

Sec. 9. All money derived by the Board under the provisions of this Act shall be placed in the General Revenue Fund.

### Penalty

Sec. 10. Any person not holding a certificate of registration as a registered water well driller who drills, bores, cores or constructs any water well in this State for compensation shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) or by confinement in the county jail for a period not to exceed one hundred and twenty (120) days, or by both such fine and imprisonment, and each day's violation shall constitute a separate offense.

### Construction

Sec. 11. Nothing in this Act shall be construed as affecting the ownership, or the rights of the owner of the land, in underground water. Acts 1961, 57th Leg., p. 1035, ch. 458.

Effective 90 days after May 29, 1961, date of adjournment.

Section 13 of the Act of 1961 provided that this act shall be cumulative of all laws and parts of laws relating to this subject.

Natural pollution of tributaries of Red River, see art. 7537b.

Polluting public body of water, see art. 4444.

Punishment for pollution, see art. 7577.

### Title of Act:

An Act to provide for the prevention of pollution of underground water by registering water well drillers and providing for administration and enforcement; and declaring an emergency. Acts 1961, 57th Leg., p. 1035, ch. 458.

## Art. 7621d. State water pollution control

## Statement of Policy

Section 1. It is declared to be the policy of the State of Texas to maintain purity of the waters of the State consistent with the public health and public enjoyment thereof, the propagation and protection of fish and wildlife, including birds, mammals and other terrestrial and aquatic life, the operation of existing industries, and the industrial development of the State, and to that end to require the use of all reasonable methods to prevent and control the pollution of the waters of this State.

## Definitions

Sec. 2. When used in this Act, the following words and phrases shall have the meanings ascribed to them in this Section, unless the context clearly shows a different meaning:

(a) "Person" means any individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other entity whatsoever.

(b) "Waters" shall be construed to be underground waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico within the territorial limits of the State of Texas, and all other public bodies of surface water, natural or artificial, inland or coastal, fresh or salt, that are wholly or partially within or bordering the State or within its jurisdiction.

(c) "Waste" means sewage, industrial waste, and other wastes, or any of them, as hereinbelow defined.

(d) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places, together with such ground water infiltration and surface waters with which it may be commingled. The admixture with sewage, as above defined, of industrial wastes or other wastes, as hereinafter defined, shall also be considered "sewage" within the meaning of this Act.

(e) "Industrial waste" means any water-borne liquid, gaseous, solid, or other waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business.

(f) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dye stuffs, acids, chemicals, salt water, and all other substances not sewage or industrial waste that may cause or tend to cause pollution of the waters of the State.

(g) "Pollution" means any discharge or deposit of waste into or adjacent to the waters of the State, or any act or omission in connection therewith, that by itself, or in conjunction with any other act or omission or acts or omissions, causes or continues to cause or will cause such waters to be unclean, noxious, odorous, impure, contaminated, altered or otherwise affected to such an extent that they are rendered harmful, detrimental or injurious to public health, safety or welfare, or to terrestrial or aquatic life, or the growth and propagation thereof, or to the use of such waters for domestic, commercial, industrial, agricultural, recreational or other lawful reasonable use.

(h) "Board" means the State Water Pollution Control Board created by this Act.

(i) "Sewer system" or "sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices,

and appliances appurtenant thereto, used for conducting sewage, industrial waste or other wastes to a point of ultimate disposal.

(j) "Treatment works" means any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

(k) "Disposal system" means a system for disposing of sewage, industrial waste or other wastes, and including sewer systems and treatment works.

**Creation and Organization of the Water Pollution Control  
Authority; Meetings; Employees**

Sec. 3. (a) There is hereby created and established a State Water Pollution Control Board which shall be composed of six (6) members. The Board is directed to carry out the functions and duties conferred on it by this Act. The Governor shall appoint by and with the advice and consent of the Senate of Texas, three (3) members to the State Water Pollution Control Board. One (1) shall be appointed for a two-year term, one (1) for a four-year term, and one (1) for a six-year term. Thereafter, all appointments by the Governor to fill a vacancy at the end of a term shall be for a full six-year term. The appointments by the Governor shall be made as follows: One (1) member shall represent the agriculture and soil conservation interests; one (1) member, the manufacturing industry; and one (1) member, the oil and gas producers.

(b) Vacancies occurring in any such office on the Board filled by appointment by the Governor during any term shall, with the advice and consent of the Senate, be filled by appointment by the Governor, which appointment shall extend only to the end of the unexpired term.

(c) The six (6) members of the Board shall receive no fixed salary for duties performed as members of the Board, but each member, excepting those representing the specified State agencies, shall be allowed, for each and every day in attending meetings of the Board, the sum of Twenty Dollars (\$20) including time spent in travel to and from such meetings, and all members shall be allowed traveling and other necessary expenses while in the performance of official duty, to be evidenced by vouchers approved by the Chairman of the Board, provided no member shall receive more than Two Thousand Dollars (\$2,000) annually, including expenses. The members of the Board appointed by the Governor and confirmed by the Senate shall qualify by taking the Constitutional oath of office before an officer authorized to administer an oath within this State, and, upon presentation of such oath, together with the certificate of appointment, the Secretary of State shall issue commissions to them, which shall be evidence of their authority to act as such. In addition to the three (3) members appointed by the Governor as provided herein, the Board shall also consist of the following State officers, each of whom shall be a member of said Board during the time that he is serving in such other official capacity, to wit: the Chairman of the State Board of Water Engineers, the State Commissioner of Health, and the Executive Secretary of the State Game and Fish Commission, each of whom shall perform the duties required of a member of the Board by this Act in addition to those duties required of him in said other official capacities.

(d) Each ex-officio member of the Board listed in paragraph (c) above, is authorized to delegate to a personal representative from his office the

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authority and duty to represent him on the Board, but by such delegation a member shall not be relieved of responsibility for the acts and decisions of his representative.

(e) Actual and necessary travel and other expenses incurred by the three (3) ex-officio members in the discharge of their official duties as members of the Board shall be paid out of any funds which are or may become available for the purposes of this Act. Employees of the Board shall receive their necessary traveling expenses while traveling on the business of the Board.

(f) The Board shall elect a chairman and a vice-chairman from its members whose terms of office shall be for two (2) years commencing on February 1st of each odd-numbered year hereafter. At the first meeting of the Board, the chairman and vice-chairman shall be elected to serve until February 1, 1963. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board and perform the other duties hereinafter prescribed. The Board shall meet at regular intervals as may be decided upon by majority vote of the Board. Special meetings may be called by the chairman upon his own motion and must be called by him upon receipt of a written request therefor signed by two (2) or more members of the Board. A majority of said Board shall constitute a quorum to transact business. The Board shall have the power to make all necessary rules for its procedure and shall have a seal, the form of which it shall prescribe.

(g) The Director of the Water Pollution Control Division of the Texas State Department of Health shall serve as Executive Secretary of the Board. He shall keep full and accurate minutes of all transactions and proceedings of said Board and perform such duties as may be required by the Board, and he shall be the custodian of all files and records of the Board. The executive secretary shall be the administrator of water pollution control activities for the Board.

(h) Technical, scientific, legal or other services shall be performed by personnel of other State agencies when requested by the Board, but the Board may employ and compensate with funds available therefor professional consultants, assistants and employees that may be necessary to carry out the provisions hereof and prescribe their powers and duties. The Board may request and shall receive the assistance of any State educational institution, experimental station, or other State agency.

(i) To carry out the provisions of this Act, any agency of this State with responsibilities under the laws of this State for water pollution control, and for which appropriations are made in the biennial appropriation act, is hereby authorized to transfer to the Board out of such appropriations such annual amounts as may be mutually agreed upon by such an agency and by the Board, subject only to the concurrence of the Governor. In the event such transfers are insufficient to finance adequately the necessary activities of the Board, then the Governor is hereby authorized to transfer to the Board from the appropriations made to the Governor's Office for deficiency grants such amounts as he may determine. It is further provided that said Board is authorized to request, solicit, contract for, receive or accept money from any Federal or State agency, political subdivision or other legal entity to carry out the duties required of it by this Act. Such moneys as may be transferred under the provisions of this Subsection, and such gifts and grants as may be received by said Board, shall be deposited in the State Treasury in a special fund. Such moneys are hereby appropriated to said Board for any of the purposes

set forth in this Act, including salaries, wages, travel expenses, equipment, and other necessary expenses.

(j) The Board shall make biennial reports in writing to the Governor and the Legislature, in which shall be included statements of its activities. All data collected by the Board shall be the property of the State of Texas.

(k) Upon the application of any person and upon payment of the fees prescribed therefor in the rules and regulations of the Board, the Board shall furnish certified copies of any of its proceedings or other official acts of record, or of any paper, map or document filed in the office of the Board. Such certified copies under the hand of the chairman or the executive secretary and the seal of the Board shall be admissible in evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be.

#### Authority, Powers and Duties of the Board

Sec. 4. (a) The Board shall administer this Act and shall have authority to abate and prevent pollution of the waters of the State as provided for herein.

(b) The Board, after notice to the parties affected, and after a public hearing if the Board deems a hearing to be in the public interest, may issue permits for the discharge of waste into or adjacent to the waters of this State. Each such permit shall set forth the conditions upon which it is issued by the Board, including, but without limiting such conditions to, the duration of such permit, the maximum quantity of waste which may be discharged thereunder at any time and from time to time, and the quality, purity and character of waste which may be discharged thereunder. The Board shall issue a permit or a notice denying a permit to each applicant within ninety (90) days after receipt of a permit application containing such information as may be reasonably required by the Board. The permittee may be required, for good cause, from time to time, after public hearing initiated by the Board, to conform to new or additional conditions and terms imposed by the Board following such hearing. The Board shall allow the permittee a reasonable time (not to exceed twelve (12) months) to conform to such new or additional conditions; provided, however, that upon application of the permittee, the Board, in its discretion, may grant the permittee an additional period of time (not to exceed twelve (12) months) within which to conform to such new or additional conditions.

Such permit or amended permit shall never become a vested right in the permittee, and it may be revoked for good cause shown, after public hearing initiated by the Board, in the event of the permittee's failure to comply with the condition or conditions of such permit as issued or as amended. Such hearing shall be held not less than thirty (30) days after notice to the permittee of the time, place, and purpose thereof.

(c) The Board shall adopt, prescribe, promulgate and enforce rules and regulations reasonably required to effectuate the provisions of this Act.

(d) The Board is hereby authorized to:

(1) hold hearings, receive pertinent and relevant proof from any party in interest who appears before the Board, compel the attendance of witnesses, make findings of fact and determinations, all with respect to violations of the provisions of this Act or of any orders, rules or regulations of the Board;



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(2) delegate to one (1) or more of its members or to one (1) or more of its employees the authority to take testimony in any hearing called by the Board with power to administer oaths, but all orders entered shall be made by and in the name of the Board after its official action and attested to by the Executive Secretary;

(3) make, alter, or modify any orders, rules and regulations, and if any such order requires the discontinuance of the discharge of waste into any waters of the State, the order shall specify the conditions and time within which such discontinuance must be accomplished after public hearing as hereinafter provided;

(4) institute, or cause to be instituted, in courts of competent jurisdiction, legal proceedings to compel compliance with the provisions of this Act and the rules, regulations, decisions, determinations and orders of the Board;

(5) conduct such investigations as it may deem advisable and necessary for the discharge of its duties under this Act;

(6) perform such other and further functions as may be necessary to carry out effectively the duties and responsibilities of the Board prescribed in this Act.

(e) It shall be the duty of the Board to:

(1) encourage voluntary cooperation by the people, municipalities, industries, associations, agriculture and representatives of other pursuits, in restoring and preserving the greatest possible utility of the waters of the State;

(2) encourage the formation and organization of cooperative groups or associations or municipalities, industrial and other users of the waters who severally or jointly are or may be the source of pollution in the same waters, the purpose of which shall be to provide a medium to discuss and formulate plans for the prevention and abatement of pollution;

(3) establish policies and procedures for the purpose of securing close cooperation in the work of the agencies of the State with respect to pollution control functions carried on by such agencies;

(4) cooperate with governments of the United States and other states, and any other agencies or groups of agencies and organizations, official or unofficial, with respect to pollution control matters or for the formulation of interstate pollution control compacts or agreements;

(5) conduct or cause to be conducted studies and research with respect to pollution abatement or control problems, disposal systems, and treatment of sewage, industrial waste and other wastes;

(6) prepare and develop a general comprehensive plan for the abatement and prevention of pollution.

(f) The Board and its duly authorized agent and employees shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution, or the possible pollution of any waters of the State. Inspectors shall not enter private property having management in residence without notifying that management of their presence. Inspectors shall observe rules and regulations of the establishment being inspected concerning safety and fire protection.

(g) The Board, and any employee or agent thereof, when authorized by it, may examine any records or memoranda pertaining to the operation of a disposal system or treatment works.

(h) In issuing, amending, modifying, or revoking any permit to discharge waste into or adjacent to the waters of this State, or in imposing

any new or additional conditions upon any permittee hereunder, the Board shall not impose upon the applicant for a permit or the permittee any condition which would require a higher standard of operation than that which is consistent with the best practice in the particular field affected under the conditions applicable to such applicant or permittee. This shall not be construed to prohibit the Board from taking any means provided by this Act to prevent the discharge of waste which is injurious to public health.

#### Existing Discharges of Waste

Sec. 5. Within twelve (12) months after the date upon which this law becomes effective, every person who upon such effective date is discharging or permitting to be discharged any waste into or adjacent to the waters of this State shall apply to the Board for a permit to continue such discharge if it is his desire to so continue. Each application therefor shall furnish such information as may be reasonably required by the Board. Upon receipt of such application, the Executive Secretary of the Board is hereby authorized to, and he shall immediately, issue to such applicant a permit to continue the existing discharge covered by such application until further order of the Board. Thereafter, the permittee may be required for good cause, from time to time, after public hearing initiated by the Board, to conform to new or additional conditions and terms imposed by the Board. The Board shall allow the permittee a reasonable time (not to exceed twelve (12) months) to conform to such new or additional conditions; provided, however, that upon application of the permittee, the Board, in its discretion, may grant the permittee an additional period of time (not to exceed twelve (12) months) within which to conform to such new or additional conditions.

Such permit or amended permit shall never become a vested right in the permittee, and it may be revoked for good cause shown, after public hearing initiated by the Board, in the event of the permittee's failure to comply with the condition or conditions of such permit as issued or as amended. Such hearing shall be held not less than thirty (30) days after notice to the permittee of the time, place, and purpose thereof.

#### Notices and Service of Process

Sec. 6. (a) Notice of any hearing shall describe briefly and in summary form the purpose of the hearing, and the time, place and date of such hearing. Where any hearing is held pursuant to application by any person, that person shall pay the cost of publishing the notices thereof hereinafter provided. In all other instances, publication costs shall be borne by the Board. Copies of each notice of a public hearing shall:

(1) be published at least twice in a newspaper regularly published or circulated in the county or counties containing such persons as the Board has reason to believe may be affected by action of the Board taken by it as a result of the hearing, the first date of publication to be not more than thirty (30) days nor less than twenty (20) days before the date fixed for such hearing; and

(2) be mailed at least twenty (20) days before the date fixed for such hearing to such persons as the Board has reason to believe may be affected by action of the Board taken by it as a result of the hearing.

(b) Service of all other processes of the Board, including notices, determinations and orders shall be served personally or by certified mail upon any natural person to whom it is addressed; upon a municipality by serving the mayor or any member of the council or the city secretary

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of the municipality; or upon a sewer district, water district, river or water authority, commission, private corporation or company, as the case may be, by serving an officer or local manager thereof; and upon a county by serving the county judge thereof.

#### Court Review of Board Decision

Sec. 7. Any person affected by any ruling, order, decision, or other act of the Board, may, within thirty (30) days after the date on which such act is performed, or in case of a ruling, order, or decision, within thirty (30) days after the effective date thereof, file a petition in an action to review, set aside, or suspend such ruling, order, decision, or other act upon the ground or grounds that the same is invalid, arbitrary, or unreasonable. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas. In a suit brought to review, suspend or set aside rules and regulations, orders, decisions, or other acts of the Board, the trial shall be de novo, as that term is used and understood in an appeal from a Justice of the Peace Court to the County Court, and no presumption of validity, reasonableness or presumption of any character shall be indulged in favor of the order, decision or other act that is involved, but evidence as to the validity or reasonableness thereof shall be heard and the determination in respect thereto shall be made upon facts found by the Court, as in other civil cases, and the procedure for such trials and the determination of the issues and the character of the judgment to be entered therein shall be governed solely by the rules of law, evidence and procedure prescribed for the District Courts of this State by its Constitution, Statutes and Rules of Procedure applicable to the trial of civil action. It is the intent of the Legislature that such trial shall be strictly de novo and that the decision in each case shall be made independently of any finding, express or implied, by the Board, and upon a preponderance of the evidence adduced at such trial and entirely free of the so-called "substantial evidence" rule enunciated in some cases by some appellate courts in this State in respect to orders of other administrative or quasi-judicial agencies. Appeals from decisions of the District Court shall be as in other civil cases.

#### Filing of Disposal System Plans

Sec. 8. For the purpose of aiding the Board in effectuating the provisions of this Act and to make available to the Board and the public, information on methods of efficient disposal of sewage, industrial wastes and other wastes, into or adjacent to the waters of the State, every person constructing or proposing to construct or materially alter the efficiency of any sewer system or sewerage system, treatment works or disposal system, shall file with the Board, at least thirty (30) days prior to beginning of construction, the plans and specifications for the construction or material alteration of the same.

#### General Prohibition Against Pollution

Sec. 9. It shall hereafter be unlawful for any person to throw, drain, run or otherwise discharge into the waters of this State, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise enter such waters, any waste, unless pursuant to and in accordance with a then-existing permit, that shall cause a condition of pollution as defined in Subsection (g) of Section 2 of this Act.

**Enforcement**

Sec. 10. (a) Any person who knowingly violates any provision of Section 9 of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) and each day such a violation is committed shall constitute a separate offense. Venue shall be in the county where the waters are first polluted by the person charged with the offense.

(b) Whenever it appears that any person is violating or threatening to violate any provision of Section 9 of this Act, the Board may bring suit against such person in the District Court of the county in which the violation or threat of violation first occurs, to restrain such person from continuing such violation or from carrying out the threat of violation. In any such suit, the court shall have jurisdiction to grant to the Board, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary or final orders. It shall be the duty of the Attorney General to represent the Board when requested to do so. The action shall have precedence over all other causes on the docket of a different nature, and either the Board or the defendant or defendants may appeal as in civil cases. The appeal shall be at once returnable to the appellate court and shall have precedence in said appellate court over all causes of a different nature therein pending.

(c) The State Board of Water Engineers, the Texas Game and Fish Commission, the Texas State Department of Health, and the Railroad Commission of Texas are charged with the following specific duties in addition to any other duties imposed on such agencies elsewhere in this Act:

(1) it shall be the duty of the State Board of Water Engineers to investigate and ascertain those situations in which the underground waters of the State are being polluted or are threatened with pollution, and it shall report all findings to the Board together with its recommendations in regard thereto.

(2) it shall be the duty of the Texas Game and Fish Commission and the employees thereof duly authorized by such Commission to enforce the provisions of this Act insofar as any violation hereof occurs which affects aquatic life, birds and animals.

(3) the Texas State Department of Health shall continue to perform the research, training, planning and other functions presently being conducted by it in matters concerning pollution in cooperation with, or as a State agency contributing its services to, the Board.

(4) Notwithstanding any provision of this Act, the Railroad Commission of Texas shall and the Board of Water Engineers shall continue to exercise the authority granted to them in Chapter 82, Acts of the Fifty-seventh Legislature, Regular Session, 1961, codified as Article 7621(b), Vernon's Annotated Civil Statutes; and the Railroad Commission of Texas shall continue to exercise the authority granted it in Chapter 406, Acts of the Fifty-fourth Legislature, Regular Session, 1955, codified as Article 6029(a).

**Exceptions**

Sec. 11. Any pollution which is caused by an act of God, war, strike, riot or other catastrophe, shall not be held to be a violation of this Act.

**Private Rights to Abate Pollution Unaffected**

Sec. 12. This Act shall not in any way affect the right of any person to pursue all legal and equitable remedies available to abate pollution and other nuisances or recover damages therefor, or both.

**Protection of Confidential Information**

Sec. 13. Nothing herein contained shall require any person to disclose any classified data of the Federal Government or any confidential information relating to secret processes or economics of operation.

**Repeal of Certain Existing Laws**

Sec. 14. Articles 4444, 7621a, and 7577 of the Revised Civil Statutes of Texas and Article 698b of the Penal Code of the State of Texas are hereby repealed, effective November 1, 1962. With the exception of Articles 4444, 7577 and 7621a of the Civil Statutes and Article 698b of the Penal Code, all other laws and parts of laws relating to the abatement of pollution are continued in full force and effect, and this Act is intended to supplement and not repeal such other existing laws.

This Act shall not in any way affect the power or authority of river authorities and water districts of this State with respect to the subject matter of this Act, including the authority granted to such river authorities and water districts by Title 128 of the Civil Statutes of the State of Texas, codified as Articles 7466 through 8280—244, Vernon's Texas Civil Statutes, as presently existing or hereafter amended. No permit issued by the Board shall be admissible in evidence against nor raise any presumption against the exercise of such power or authority of water districts. Nothing in this Act shall be construed in any way so as to affect the private ownership of underground water.

**Conditional nature of privileges and rights**

Sec. 15. The privileges and the rights accruing in any person or permittee by or as a result of this Act, including the privileges and rights of any person or permittee resulting from any act of the Board created by this Act, are conditional, in that they are allowed, granted, received, accepted, and enjoyed not only under the provisions and subject to the conditions of this Act but upon the further condition that such privileges and rights are, whether under the police power as affecting persons or otherwise, subject to the provisions of any law the Legislature may pass abolishing such privileges or rights, or requiring or effecting their amendment, revocation, forfeiture, or cancellation, or providing for their further regulation, or any of these, including the further empowering of agencies to effect those purposes.

**Effective Date**

Sec. 16. Except as otherwise specifically provided herein, the provisions of this Act shall become effective as of November 1, 1961, and it is so enacted. Acts 1961, 57th Leg., 1st C.S., p. 156, ch. 42.

Effective 90 days after Aug. 8, 1961, date of adjournment, but § 14 effective Nov. 1, 1962.

Injection wells for industrial and municipal waste, see art. 7621b.

Preventing pollution of underground water, registration of well driller, see art. 7261c.

**CHAPTER TWO—WATER IMPROVEMENT DISTRICTS**

Art.

7723a. Sale of unnecessary lands; proceeds [New].

**Art. 7622b. Annexation of territory not embraced in district**

Sale of unnecessary lands, see art. 7723a.

**Art. 7641—b. Division of districts; election of directors; qualifications; change in boundaries; election precincts; notice of election**

At any time after this Act shall have become effective, the Board of Directors of such District may make an order dividing said District into divisions as nearly equal in size as practicable, being five (5) in number, which shall be numbered consecutively, and thereafter one Director shall be elected for each division by the qualified electors of the whole irrigation district.

All orders heretofore made by the Board of Directors dividing such District into five (5) divisions are hereby validated and confirmed, and all elections heretofore held for Directors from each of said divisions are also hereby validated and confirmed.

In addition to the qualifications prescribed in Article 7641—b, such Director shall be the owner of agricultural land subject to taxation within such division, and shall reside in the division from which he is elected.

The Board may, from time to time, change the boundaries of such division, in accordance with the requirements hereof; provided no such change shall be made within sixty (60) days of any election.

For the purpose of elections in such district, the Board of Directors shall establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, at the discretion of the Board.

Whenever the Board of Directors may consider it advisable from the standpoint of convenience or economy in holding elections in such District, they may by order entered in the minutes of the District prior to the issuance of notice of any election, designate one polling or voting place for two or more precincts, and if this action is taken the notice of the election shall state the one polling or voting place for the qualified voters in two or more of the precincts designated in the notice; provided, that there shall be at least one polling or voting place in each Division of the District. As amended Acts 1961, 57th Leg., p. 985, ch. 429, § 1.

Emergency. Effective June 16, 1961.

**Art. 7646. Petition to exclude lands**

Sale of unnecessary lands, see art. 7723a.

**Art. 7681. Parties defendants**

Sale of unnecessary lands, see art. 7723a.

**Art. 7723a. Sale of unnecessary lands; proceeds**

Section 1. Any land or interest in land acquired by any water improvement district to carry out the plans of the district which may be found not to be reasonably required for such purpose may be sold under

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

orders of the directors of the district at public sale to the highest bidder, and the proceeds of such sale shall be applied as follows:

(a) Unless said proceeds are needed as provided in (b) below, the same shall be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district, if there be any such outstanding bonds;

(b) If additions or betterments to the improvements of the district are needed and sufficient funds from other sources are not available for making such additions or betterments, the proceeds of such sale may be used for such purposes to the extent required therefor;

(c) If and to the extent that such proceeds are not required to be applied under subparagraph (a) or (b) of this Section, the same may be used for any lawful purpose of the district as may be ordered by its board of directors.

Sec. 2. Before making any sale of any such land originally acquired for the purpose of carrying out plans of the district and found not to be needed for such purpose, the district must give notice of the intent so to do by publishing such notice once a week for two consecutive weeks in one or more newspapers to give general circulation in the district, the first of which publications to be made at least ten days prior to such sale.

Sec. 3. Any land of such district acquired through foreclosure of its liens for maintenance and operation assessments, or acquired otherwise than for carrying out the plans of the district, may be sold at public sale to the highest bidder, and the proceeds of the sale thereof may be used for betterments or improvements or the maintenance and operation of the system of the district or otherwise in carrying on the business of the district as may be determined by the board of directors of the district. Acts 1961, 57th Leg., p. 242, ch. 124.

Emergency. Effective May 15, 1961.

Annexation of territory not embraced in district, see art. 7622b.

Conveying interests in water rights to other water improvement districts, see art. 7800.

Eminent domain, right of, see art. 7723.

Excluding lands from district, see arts. 7646, 7647.

Funds, disposition of surplus, see art. 7747.

Granting eminent domain to water improvement districts, see art. 7807a.

Sale and lease of electrical energy, see art. 7794a.

Sale of property for taxes, see arts. 7681, 7682.

Sinking funds, see arts. 7712, 7713.

Unnecessary property, sale by water control and improvement districts, see art. 7880—125.

Title of Act:

An Act to authorize water improvement districts to sell lands belonging to such districts; providing for the disposition of the proceeds of such sale in certain cases; and declaring an emergency. Acts 1961, 57th Leg., p. 242, ch. 124.

#### Art. 7779. Benefit plan of taxation

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

#### Art. 7807d. Water Improvement Districts and Water Power Control Districts; organization and powers; provisions to govern

Effect of state water pollution control law on power or authority of river authorities and water districts, see art. 7621d, § 14 (2nd par.).

CHAPTER THREE A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.  
7880—1a. Limitation on creation of districts; exemptions [New].

Art.  
7880—123a. Relocation of facilities; expense [New].

Art. 7880—1. May be organized; petition

Creating and Validating Acts

Bertram Water Control and Improvement District, No. 1, change of name to, see Acts 1961, 57th Leg., p. 1045, ch. 464.

Brazoria County Water Control and Improvement District No. 3, validation, see Acts 1961, 57th Leg., 1st C.S., p. 175, ch. 46.

Burnet County Water Control and Improvement District No. 1, changing name, see Acts 1961, 57th Leg., p. 1045, ch. 464.

Coleman County Water Control and Improvement District No. 1, validation, see Acts 1961, 57th Leg., p. 248, ch. 128.

Dallas County Water Control and Improvement District No. 6; validation of annexations, see Acts 1961, 57th Leg., p. 989, ch. 432.

Donley County Water Control and Improvement District No. 1,

Selection of board of directors, see Acts 1961, 57th Leg., p. 323, ch. 172.

Fannin County Water Control and Improvement District No. 1, creation and validation, see Acts 1961, 57th Leg., p. 118, ch. 65.

Fannin County Water Control and Improvement District No. 3, creation and validation, see Acts 1961, 57th Leg., p. 576, ch. 271.

Fort Bend County Water Control and Improvement District No. 2, enlargement of boundaries, see Acts 1961, 57th Leg., p. 673, ch. 312.

Fort Hancock Water Control and Improvement District of Hudspeth County, validation of acts and proceedings, see Acts 1961, 57th Leg., p. 151, ch. 78.

Hidalgo County Water Improvement District No. 2, exclusion of certain lands, see Acts 1961, 57th Leg., p. 802, ch. 367.

Houston County Water Control and Improvement District No. 1, territory, additional powers, Acts 1961, 57th Leg., p. 277, ch. 151.

Matagorda County Water Control and Improvement District No. 6, validation, see Acts 1961, 57th Leg., p. 338, ch. 195.

McLennan and Hill Counties Tehuacana Creek Water Control and Improvement District Number One, creation and validation, see Acts 1961, 57th Leg., p. 99, ch. 55.

Nueces County Water Control and Improvement District No. 4, validation, see Acts 1961, 57th Leg., p. 147, ch. 75.

San Gabriel River Water Control and Improvement District No. 1, changing number and terms of directors, see Acts 1961, 57th Leg., p. 1045, ch. 464.

Tom Green County Water Control and Improvement District No. 1, defining boundaries, detachment of land, annexation, see Acts 1959, 56th Leg., p. 354, ch. 171, §§ 1-3; Acts 1961, 57th Leg., p. 1021, ch. 448.

Art. 7880—1a. Limitation on creation of districts; exemptions

After the effective date of this Act no water district shall be created to effectuate the purposes expressed in Section 59 of Article 16 and Section 52(a) and 52(b) of Article 3 of the Constitution of Texas except such districts may be created by the provisions of Article 7880-1 et seq., Revised Civil Statutes of Texas. The provisions of this Act shall not be applicable to districts created pursuant to the provisions of the State Soil Conservation Law, codified as Article 165a-4, Vernon's Texas Civil Statutes. The passage of this Act shall in no way affect any water district heretofore lawfully created, nor shall this Act affect the authority of the Legislature to create special districts pursuant to the provisions of Section 59 of Article 16 of the Constitution of Texas. Acts 1961, 57th Leg., p. 1034, ch. 457, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Soil conservation law, see art. 165a-4.

Underground water conservation districts, see art. 7880-3c.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Title of Act:

An Act providing that Water Control and Improvement Districts and underground water conservation districts may be created only according to the provisions of

Section 59 of Article 16 of the Constitution; providing exemptions; and declaring an emergency. Acts 1961, 57th Leg., p. 1034; ch. 457.

**Art. 7880—3c. Underground water conservation districts**

**Creation of districts; powers and functions**

**B.**

(11) To require the owner or operator of any land upon which is located any open or uncovered well to close or cap the same permanently with a covering capable of sustaining weight of not less than four hundred (400) pounds, except when said well is in actual use by the owner or operator thereof; an "open or uncovered well" as that term is used in this Act means any artificial excavation drilled or dug for the purpose of producing water from the underground water reservoir, not capped or covered as required by this Act, which is as much as ten (10) feet deep and not less than ten (10) inches nor more than six (6) feet in diameter; in the event any owner or operator of any land upon which is located such an open or uncovered well fails or refuses to close such open or uncovered well in a manner which is in compliance with this Act within ten (10) days after being requested to do so, in writing, by an officer, agent, or employee of the District, any person, firm or corporation employed by said District is hereby granted the authority to go upon said land and to safely and securely close or cap said well in a manner which is in compliance with the provisions of this Act, and all expenditures incurred by said District in closing or capping said well shall constitute a lien upon the land upon which such open or uncovered well is located; provided however, no lien shall be created on any property for more than One Hundred Dollars (\$100), as of the date of the completion of the closing or capping of said well; said lien shall be perfected by the filing in the Deed Records of the county in which said well is located of an affidavit executed by any person conversant with the facts to the effect that such open or uncovered well was in existence, giving the legal description of the property upon which it was located, and its approximate location on said property, that the owner or operator of said land was notified and requested to close said well, and failed or refused to do so within ten (10) days after such notification, and that said well had been closed by the District, or by an authorized agent, representative, or employee of the District instructed by the said District to close the same, and stating the amount of the expenditures required to properly close said well; said Districts are hereby authorized to formulate, promulgate, and enforce such rules and regulations as may be necessary or appropriate to effectively discharge the powers herein granted; the powers and authority herein granted the District are cumulative or additional, and shall not be considered as abridging or amending in any way Article 1721 of the Texas Penal Code, being Acts of the Fifty-first Legislature, 1949, page 509, Chapter 281. Added Acts 1961, 57th Leg., p. 1095, ch. 493, § 1.

Emergency. Effective June 17, 1961.

Limitation on creation of water control and improvement districts, see art. 7880—1a.

**Art. 7880—7. Powers**

Effect of state water pollution control law on power or authority of river author-

ities and water districts, see art. 7621d, § 14 (2nd par.).

**Art. 7880—21. State Board of Water Engineers; jurisdiction**

The State Board of Water Engineers are hereby constituted a commission for the purpose of, and to have exclusive jurisdiction and power to hear and determine all petitions for organization of a district which is proposed to include lands or property situated in two or more counties, and their orders thereon shall be final, unless appealed from as hereinafter provided. Upon the filing of such petition the Board shall give notice of hearing in the manner provided in Section 15 of said Chapter 25,<sup>1</sup> save that notice shall be posted at the court house door, on the bulletin board used for posting legal notices, in each county in which the district may be situated, and the publication must be in one or more newspapers to give general circulation in the area of the proposed district. A petition to be filed with said Board must be accompanied by a deposit of Two Hundred and Fifty (\$250.00) Dollars for the use of the state, as provided for other fees collected under this Act; no part of which shall be returned, except as hereinafter provided. The deposit shall be deposited in the hands of the State Treasurer to be held in trust outside the State Treasury until the Board does either grant or refuse such petition, at which time the Board shall direct the State Treasurer to transfer said deposit into the General Revenue Fund; provided, if at any time prior to the hearing, as hereinafter provided, the petitioners desire to withdraw said petition, then and only in that event, the Board shall direct the refund of said deposit to petitioners, or their attorney of record, whose receipt therefor shall be sufficient. Said Board shall hear, consider and determine such petition upon the issues, and in the manner, form and time by this Act provided to control hearings and determination of such petitions by a Commissioners Court under the provisions of Section 19 of Chapter 25 as amended<sup>2</sup> hereby.

When said Board does either grant or refuse such petition any person who comes within the requirements specified in Sections 17 and 18 of Chapter 25<sup>3</sup> may prosecute an appeal therefrom under the same provisions as are set out in said Section 18 of Chapter 25; provided, however, that such appeal may be taken to any district court sitting in any county in which any part of the proposed district may be, or to a district court in Travis County, Texas, and the time within which an appeal bond may be approved and filed shall be fifteen days after the entry of the final order by said Board. Upon the perfection of such appeal the party appellant shall pay the actual cost of the transcript of the record, which shall be assessed as part of the costs incurred on such appeal; provided, however, that whenever practicable the original documents and processes with the returns thereon shall be sent to the district court. As amended Acts 1961, 57th Leg., p. 1040, ch. 460, § 1.

<sup>1</sup> Article 7880—15.

<sup>2</sup> Article 7880—19.

<sup>3</sup> Articles 7880—17, 7880—18.

Emergency. Effective June 17, 1961.

**Art. 7880—33. Levy of Taxes**

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

**Art. 7880—49. Entry on lands**

Directors, employees and engineers of districts and authorities, entry upon lands, see art. 8280—11.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 7880—54. Tax assessor and collector**

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

**Art. 7880—76c. Excluding unirrigated lands from districts containing more than 100,000 acres**

**Definitions**

**Section 01. As used in this Act:**

(a) "District" means any Water Control and Improvement District further described in Sections 1 and/or 2 of this Act;

(b) "Urban property" means land subdivided into town lots, or town lots and blocks, suitable for urban use, located within city, town, or village limits, including streets, alleyways, parkways and parks that may be included in the subdivision, the plat or map of which subdivision has been duly filed for record and recorded in the office of the county clerk of the county in which the subdivision or any part thereof is filed, and which land is not considered irrigable either because the relevant city, town, or village ordinances are not conducive to farming practices or because water is not readily available to the land from District canals;

(c) "Lands" means unirrigated lands or urban property subject to the Board of Directors' action under Section 5 of this Act. Added Acts 1961, 57th Leg., p. 1097, ch. 494, § 1.

**Exclusion of unirrigated lands; petition; hearing**

**Sec. 1.** The Board of Directors of any District containing within its boundaries more than thirty thousand (30,000) acres and obtaining the water furnished by its facilities from private corporations engaged in the business of irrigating lands, which has an established and operating irrigation system which cannot, and never has been able to irrigate sixty per cent (60%) or less of the lands in the District, may, and on petition signed by the owners of at least twenty per cent (20%) of the assessed value of the unirrigated lands, as shown by the most recent tax rolls in the District, must call and hold a hearing to determine whether or not all or any part or parts of the unirrigated lands shall be excluded from the District and the liability of the lands so proposed to be excluded for the bonded indebtedness of said District limited or adjusted. As amended Acts 1961, 57th Leg., p. 1097, ch. 494, § 2.

**Exclusion of urban lands; petition; hearing**

**Sec. 2.** The Board of Directors of any District containing urban property may, and on petition signed by the owners of at least twenty per cent (20%) of the assessed value of the urban property as shown by the most recent tax rolls in the District must, call and hold a hearing to determine whether or not all or any part or parts of the urban property shall be excluded from the District and the liability of the property proposed to be excluded for the bonded indebtedness of the District limited or adjusted. As amended Acts 1961, 57th Leg., p. 1097, ch. 494, § 3.

**Continuance of hearing; resolution excluding lands**

**Sec. 5.** (a) If, as a result of a hearing held in Districts described in Section 1 of this Act, which may be continued from day to day, and from time to time until all persons or their counsel entitled to be heard and who appear at said hearing have an opportunity to be heard and offer evidence,

the Board of Directors shall determine and find (1) that the District does not intend, or through lack of finances or through inability of the District to obtain funds conformable to the law of Texas applicable to it sufficient therefor, to extend the existing irrigation system of the District to the un-irrigated lands or any part or parts thereof, within two years after date of such hearing; or (2) that the owners of a majority in assessed value of the un-irrigated land or part or parts thereof do not desire irrigation for the same; and (3) that it would be to the best interest of said District and of the lands so proposed to be excluded or any part or parts thereof, that said irrigation system be not extended thereto and that they be excluded from said District, the said Board of Directors shall adopt a resolution setting forth such determination and findings and excluding the un-irrigated lands, or such part or parts thereof as to which such determination and findings are made.

(b) If, as a result of a hearing held in a District described in Section 2 of this Act, which may be continued from day to day, and from time to time until all persons or their counsel entitled to be heard and who appear at the hearing have an opportunity to be heard and offer evidence, the Board of Directors shall determine and find (1) that it is in the best interest of the District that the urban property proposed to be excluded be excluded; or (2) that a majority in assessed value of the urban property proposed to be excluded desire exclusion and that exclusion would be in the best interest of the District and of the urban property proposed to be excluded, the Board of Directors must adopt a resolution setting forth its determinations and findings and excluding the urban property, or such part or parts thereof as to which determinations and findings are made. As amended Acts 1961, 57th Leg., p. 1097, ch. 494, § 4.

#### Fixing liability for indebtedness of excluded lands

Sec. 6. If as a result of a hearing, held under Section 5 of this Act, the Board of Directors determines that all or any part or parts of the un-irrigated lands or urban property should be excluded from the District, it must also determine and fix the amount or portion of the outstanding and unpaid principal of the bonded indebtedness of the District that the excluded lands shall remain liable for, and embody same in said resolution, showing in what manner or upon what basis said amount or portion of said indebtedness was arrived at. As amended Acts 1961, 57th Leg., p. 1097, ch. 494.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 7880—77a. Adoption of plan of Taxation

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

#### Art. 7880—101. Sale of bonds

After the issuance of such bonds as herein provided the directors of a district shall sell same on the best terms and for the best possible price, but none of said bonds shall be sold for less than ninety-five per cent (95%) of their face value. When said bonds are sold the proceeds thereof shall be paid over by the directors to the depository for said district. The district may exchange bonds for property acquired by purchase, or in payment of the contract price of work done for the use and benefit of said district. As amended Acts 1961, 57th Leg., p. 711, ch. 336, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 7880—107. Taxation for maintenance purposes**

All conservation and reclamation districts created pursuant to Article 16, Section 59a and Article 3, Section 52, of the Constitution of Texas, shall have the authority to levy and collect taxes to secure funds for maintenance purposes, including but not limited to funds for planning, maintaining, repairing and operating all necessary plants, properties, facilities and improvements of such districts and for the payment of proper services, engineering and legal fees, organization and administrative expenses. No such taxes shall be levied and collected unless authorized by a majority of those voting at an election held for such purpose. Only the qualified voters who reside in the district and who own taxable property therein and who have duly rendered the same for taxation shall be permitted to vote at such election. Such maintenance tax election may be held at the same time and in conjunction with the election for the purpose of authorizing bonds and, in this instance, the procedure for calling such an election, giving notice thereof, conducting the election, and canvassing the returns, shall be the same as the procedure established for an election to authorize the issuance of district bonds to be supported wholly or partially by taxation. In the event that only a maintenance tax election is called, the order calling said election shall be at least fifteen (15) days prior to said election and the notice of same shall be published at least twice, with the first publication being at least fourteen (14) days prior to said election, in some newspaper having general circulation in the district. At any time that such district has surplus maintenance funds not needed for the purposes specifically mentioned in this Article, the governing body of that district shall have the authority to declare such funds as surplus and these funds may then be used for any lawful purpose. All such districts, which have previously held an election for maintenance taxes and which election resulted in a majority vote in favor thereof, shall have the right, power and authority to assess, levy and collect such taxes, and said elections for maintenance tax purposes are in all things ratified, confirmed and validated. As amended Acts 1961, 57th Leg., p. 711, ch. 336, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 7880—123a. Relocation of facilities; expense**

In the event that any water district hereafter created or organized under the provisions of this Act, in the exercise of the power of eminent domain or police power, or any other power, requires the relocation, raising, lowering, re-routing, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities, or pipelines, all such relocation, raising, lowering, re-routing, or changes in 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, lowering, 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.

Provided that this Section shall not be applicable to those projects under construction or financed or for which bonds have been voted and approved by the Acts of any district on the effective date of this Act, unless the provisions hereinabove are contained in the acts of the district authorizing said construction or financing. Added Acts 1961, 57th Leg., p. 711, ch. 336, § 3(a).

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 7880—125. Property of district; conveyance to United States**

Unnecessary land, sale by water improvement district, see art. 7723a.

**Art. 7880—130. Benefit or ad valorem basis for tax levy**

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

**Art. 7880—132. Manner of levying assessment, collection of taxes, etc.**

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

**Art. 7880—139. Investigation by State Board of Water Engineers**

The State Board of Water Engineers shall be and is constituted a commission to investigate and report upon the organization and feasibility of all districts which shall issue bonds under the provisions hereof. All such districts desiring to issue bonds for any purpose shall submit in writing to said Board an application for investigation, together with a copy of the engineer's report and a copy of data, profiles, maps, plans and specifications prepared in connection therewith. Said Board or its designated agents shall examine same and shall visit the project and carefully inspect the same and may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements. They shall file in their office in writing their suggestions for changes and improvement and furnish a copy thereof to the board of directors of such district. If said Board shall finally approve or refuse to approve such project, or the issuance of bonds for such improvements, they shall make a full written report thereon, file same in their office and furnish a copy of same to the board of directors of said district. During the course of construction of such project and improvements, no substantial alterations shall be made in the plans and specifications as approved by the Board of Water Engineers unless and until such time as the engineer in charge of construction shall have given written notice thereof by certified mail to the Board of Water Engineers and the board of directors of such district. The Board or its designated agent shall have full authority to inspect the works of improvement at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by said Board and in accordance with any substantial alterations for which notice has been given as provided herein. In the event the Board finds that the project is not being constructed in accordance with the approved plans and specifications and in accordance with any substantial alterations for which notice has been given, and that substantial alterations have been or are being made without notice as provided herein, then the Board immediately shall notify in writing by certified mail each member of the board of directors of such water district and its manager, if there be one, "Designated Agent," as used in this Section shall mean any licensed engineer selected by the Board to perform the functions as specified herein. As amended Acts 1961, 57th Leg., p. 711, ch. 336, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

## CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS

### 1. ESTABLISHMENT

#### Art. 7897. General election

A general election for the election of five (5) supervisors and one (1) assessor and collector for such district shall be held biennially on the first Tuesday in January. If such date shall have been proclaimed a State or National holiday, the next following Tuesday from such date shall be the date of such election. As amended Acts 1961, 57th Leg., p. 1104, ch. 497, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

### II. LEVEES

#### CHAPTER FIVE—STATE RECLAMATION ENGINEER

*Powers and duties formerly vested in the State Reclamation Engineer, and transferred to the General Land Office, have been transferred to and vested in the State Board of Water Engineers. See art. 5421h—2.*

#### CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

*Powers and duties formerly vested in the State Reclamation Engineer, and transferred to the General Land Office, have been transferred to and vested in the State Board of Water Engineers. See art. 5421h—2.*

### 1. ESTABLISHMENT

Arts. 7973, 7977, 7986, 7990, 7993, 8000, 8007a

Powers and duties of former State Reclamation Engineer vested in General Land Office transferred to State Board of Water Engineers, see art. 5421h—2.

Arts. 8023, 8024, 8027, 8028, 8030, 8034

Powers and duties of former State Reclamation Engineer vested in General Land Office transferred to State Board of Water Engineers, see art. 5421h—2.

### III. DRAINAGE

#### CHAPTER SEVEN—DRAINAGE DISTRICTS

### 1. ESTABLISHMENT

Art. 8097. [2567] May establish  
Creating and Validating Acts

Calhoun County Drainage District No. 11, creation and validation, see Acts 1961, 57th Leg., p. 716, ch. 339.

Jefferson County Drainage District No. 6, enlargement of district, see Acts 1961, 57th Leg., p. 753, ch. 349.

**Art. 8120. [2585] Compensation of commissioners in counties of 75,000 to 90,000 having assessed valuation of \$245,000,000**

The Commissioners of Drainage Districts shall receive for their services not more than Seven Dollars and Fifty Cents (\$7.50) per day for the time actually engaged in the work of their District, which compensation shall be fixed by an order of the Commissioners Court. Before the accounts of such Commissioners shall be approved by the Commissioners Court such Commissioners shall first submit a detailed report in writing, under oath, to the Commissioners Court of their county, showing the time actually consumed in the work for said District, and describing the work done, and such reports shall be audited and allowed by the Commissioners Court in such amount as it may determine; provided that in all counties having a population of more than seventy-five thousand (75,000) and less than ninety thousand (90,000) inhabitants according to the last preceding or any future Federal Census, and having one (1) or more Drainage Districts therein, and having an assessed valuation for county tax purposes of Two Hundred Forty-five Million Dollars (\$245,000,000) or more, the Commissioners Courts of such counties, upon application therefor in writing by the Commissioners of Drainage Districts located in such counties showing the necessity therefor, may allow Commissioners of such Drainage Districts for work thereafter to be done and services thereafter to be performed an additional sum not to exceed Two Dollars and Fifty Cents (\$2.50) per day, and such Courts may upon written application therefor permit an automobile or automobiles to be used by such Commissioners in the discharge of their duties and allow not to exceed Seven Dollars and Fifty Cents (\$7.50) per day for their use, expense, oil, gas, repairs and upkeep of each automobile so permitted to be used; provided that such Courts, after having heard such petitions, may deny or grant the same in whole or in part, and shall enter their written orders in the premises fixing the amount of such allowance or allowances within the limits aforesaid, stating the reasons and necessity therefor, and fixing the number of days in which allowances are to be in effect.

This Act as amended shall apply to any Drainage District in this State heretofore or hereafter organized under the provisions of Section 52, Article III, Constitution of Texas, which District has heretofore or shall hereafter, be converted into a Conservation and Reclamation District under Section 59, Article XVI, Constitution of Texas, and which District lies wholly within one (1) county. As amended Acts 1955, 54th Leg., p. 657, ch. 230, § 1; Acts 1957, 55th Leg., p. 485, ch. 233, § 1; Acts 1961, 57th Leg., p. 669, ch. 309, § 1.

Emergency. Effective June 14, 1961.

**Art. 8140. Taxes: assessment**

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280-10.

**Art. 8161b. Drainage district Commissioners in counties of 150,000 to 350,000; powers; compensation****Compensation of Commissioners**

Sec. 7. (a) The Commissioners of drainage districts shall receive for their services compensation for the time actually engaged in the work of their district not to exceed One Hundred and Fifty Dollars (\$150) in



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any one (1) month, which compensation shall be fixed by an order of the Commissioners Court. The amount of such compensation shall be determined upon the application therefor in writing by the Commissioners of drainage districts located in such counties, showing the necessity therefor, provided that such Commissioners Court, after having heard such petitions, may deny or grant the same in whole or in part and shall enter their written order in the premises fixing the amount of such compensation within the limits aforesaid.

(b) In counties having a population of two hundred and forty-five thousand (245,000) or more, according to the last preceding Federal Census, the Commissioners of drainage districts shall receive for their services compensation for the time actually engaged in the work of their district, not to exceed Three Hundred and Fifty Dollars (\$350) per month, which compensation shall be fixed by an order of the Commissioners Court. The amount of such compensation shall be determined upon the application therefor in writing by the Commissioners of drainage districts located in such counties, showing the necessity therefor, provided that such Commissioners Court, after having heard such petitions, may deny or grant the same in whole or in part, and shall enter their written order in the premises fixing the amount of such compensation within the limits aforesaid. As amended Acts 1961, 57th Leg., p. 1077, ch. 482, § 1.

Emergency. Effective June 17, 1961.

### 3. ABOLITION

#### Art. 8193—1. Abolition of drainage districts in counties having flood control or conservation or reclamation district

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

## IV. CONSERVATION AND RECLAMATION

### CHAPTER EIGHT—CREATION OF DISTRICTS

#### Art. 8194. Creation

##### Creating and Validating Acts

Donna Irrigation District, Hidalgo County No. 1.

Enlargement of territorial limits, see Acts 1961, 57th Leg., p. 257, ch. 133.

Territorial boundaries, see Acts 1961, 57th Leg., p. 521, ch. 247.

Nueces County Drainage and Conservation District No. 2, validation, see Acts 1961, 57th Leg., p. 1149, ch. 520.

#### Art. 8196. Powers

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

Effect of state water pollution control law on power or authority of river authorities and water districts, see art. 7621d, § 14 (2nd par.).

#### Arts. 8197, 8197c

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

2. SPECIAL POWERS

A. PORT FACILITIES

Art.

8247b—1. Ordinances, rules, and regulations to protect properties and promote health, safety and general welfare [New].

Art. 8198. [5955] Scope of district

Creating and Valldating

see Acts 1961, 57th Leg., 1st C.S., p. 35, ch. 13.

Harris County Houston Ship Channel Navigation District,

Port of Beaumont Navigation District of Jefferson County,

Powers to acquire, enlarge, repair, operate, etc.; bond issue, see Acts 1957, 55th Leg., p. 241, ch. 117, as amended Acts 1961, 57th Leg., p. 369, ch. 186.

Creation, see Acts 1949, 51st Leg., p. 270, ch. 147, as amended Acts 1957, 55th Leg., p. 30, ch. 20; Acts 1961, 57th Leg., p. 8, ch. 5.

Orange County Navigation and Port District,

Rates of pilotage and liability of certain vessels for payment of pilotage, see Acts 1961, 57th Leg., 1st C.S., p. 34, ch. 12.

Rates of pilotage and liability of certain vessels for payment of pilotage,

Art. 8225. [5990] May acquire property; purchase from state

State-owned submerged lands and islands, conservation and preservation of natural resources, see art. 5415e.

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8247b—1. Ordinances, rules, and regulations to protect properties and promote health, safety and general welfare

Powers granted and enumerated

Section 1. The Board of Navigation and Canal Commissioners of all navigation districts within this State organized under the provisions of Section 59, Article XVI, of the Constitution; and under the provisions of Chapter 5 of the General Laws of Texas, passed by the Thirty-ninth Legislature of the State of Texas at its Regular Session, and Acts amendatory thereof, or created, organized, existing, doing business or acting under and by virtue of any local or special Law of the Legislature purported to have been enacted under the provisions of Section 59, of Article XVI, of the Constitution, which own, operate and maintain wharves, docks, piers, sheds, warehouses and other similar terminal facilities not situated within the boundaries of any incorporated city, town or village of this State, for the purpose of protecting their said properties so situated and of promoting the health, safety and general welfare of that portion of the general community using said properties and facilities, shall be and they hereby are empowered to pass, publish, amend or repeal all ordinances, rules and police regulations not contrary to the Constitution or laws of

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this State that may be necessary or proper to carry into effect the powers vested by this Act in said navigation districts for such purposes; such powers that may be exercised by any such navigation district for such purposes and with respect to any of its properties not situated within the corporate limits of any city, town or village of this State shall include powers:

(a) To control the operation of all character of vehicles using the roads maintained by said navigation districts other than such roads that have been or may be hereafter dedicated to public use by formal dedication but not otherwise and to prescribe the speed, lighting, and other requirements of the same.

(b) To prohibit loitering on its docks, wharves, piers, warehouses, sheds or other properties.

(c) To control the operation of all character of vessels using their harbors, turning basins, basins or navigable channels, and to prescribe the speed, lighting, and other requirements of same.

(d) To prohibit smoking, the use of flares, open fires, and inflammable, highly combustible, or explosive substance and materials on their docks, wharves, piers, warehouses, sheds and other properties, or on such parts of such properties and at such times or during such periods as may, in the judgment of the governing body of any of such navigation districts, be determined to be dangerous to any of such properties or inimical to the safety or general welfare of that portion of the general community using such properties or parts thereof.

(e) To prevent on any of said properties all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarrels, using abusive, profane or insulting language, all disorderly conduct, and all misdemeanor theft and to punish all persons thus offending.

(f) To suppress and prevent any riot, affray, disturbance or disorderly assembly on any of said properties.

(g) To license and regulate or suppress and prevent hawkers and peddlers utilizing or attempting to utilize said roads and other properties of any of said navigation districts.

#### Enforcement of law, ordinance, rule or regulation; penalty

Sec. 2. The governing body of any such navigation district may provide by ordinance for the enforcement of this Act and of any ordinance, rule, or regulation made thereunder. A violation of this Act or of such ordinance, rule, or regulation is hereby declared to be a misdemeanor and such governing body may provide for the punishment thereof by a fine not to exceed Two Hundred Dollars (\$200) for any one (1) offense or violation.

#### Jurisdiction of violations

Sec. 3. Any justice of the peace court in the justice precinct where the offense is alleged to have been committed, or any county court at law in the county where the offense is alleged to have been committed having concurrent original jurisdiction with such justice of the peace court, shall have original jurisdiction of all such misdemeanors or violations of this Act or of any such ordinances, rules or regulations.

#### Power to arrest, serve criminal warrant, subpoena or writ

Sec. 4. In all prosecutions involving the enforcement of the provisions of this Act, or of any such ordinance, rule or regulation of the gov-

erning body of any such navigation district, any sheriff, constable, or other duly constituted peace officer of the State of Texas, and any peace officer employed or appointed by the governing body of any such navigation district, shall have the power to arrest, and the power and authority to serve any criminal warrant, subpoena or writ, and the power and authority to perform any other service or duty in enforcing the provisions of this Act as may be performed by any sheriff, constable or other duly constituted peace officer of the State of Texas in enforcing other laws of this State.

**Style of ordinances**

Sec. 5. The style of all ordinances enacted by any such governing body of any such navigation district shall be "BE IT ORDAINED BY THE NAVIGATION AND CANAL COMMISSIONERS OF THE \_\_\_\_\_" (inserting the name of the navigation district).

**Publication of ordinance, rule or regulation; proof of publication**

Sec. 6. Every ordinance, rule or regulation enacted by the governing body of any such navigation district pursuant to the authority conferred by the provisions of this Act and imposing any fine or other penalty shall, after the passage thereof, be published in every issue of a newspaper of general circulation published at the domicile of such navigation district or within the territorial limits of such navigation district for ten (10) days. If the only newspaper published at the domicile of any such navigation district or within the territorial limits thereof be published weekly, the publication shall be made in two (2) consecutive issues thereof. Proof of such publication shall be made by the printer or publisher of such paper by affidavit filed with the secretary of the governing body of said navigation district and shall be prima facie evidence of such publication and promulgation of such ordinances, rules and regulations in all courts of the State. Such ordinances shall take effect and be in force from and after the publication thereof unless otherwise expressly provided. In lieu of the publication of the entire body of any such ordinance, rule or regulation the governing body of any such navigation district, may, in its discretion, provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance, rule or regulation and the penalty for the violation thereof.

**Conflict with law, etc.**

Sec. 7. No such ordinance, rule or regulation enacted by any such navigation district pursuant to the provisions of this Act shall conflict with any law, statute, rule or regulation of this State.

**Law cumulative**

Sec. 8. This Act shall be construed as cumulative authority for the accomplishment of the purposes herein mentioned and is not to be construed to repeal any existing laws on the same subject matter. Acts 1961, 57th Leg., p. 1084, ch. 486.

Effective 90 days after May 29, 1961, date of adjournment.

## 3. GENERAL PROVISIONS

## Art. 8263a. Conversion of navigation districts into other districts under Constitution

## Navigation and canal commissioners

Sec. 5. After the establishment of any Navigation District as herein provided, the Commissioners Court or Navigation Board, as the case may be, shall appoint three Navigation and Canal Commissioners, all of whom shall be residents of the proposed Navigation District, who shall be freehold property taxpaying voters of the county whose duties shall be as hereinafter provided, and who shall each receive for their services such compensation as may be fixed by the Commissioners Court of the county exercising jurisdiction in creating said District. Said Navigation and Canal Commissioners shall hold office for a term of six (6) years and until their successors have been elected and qualified, unless sooner removed by a unanimous vote of the County Commissioners or Navigation Board as the case may be for malfeasance or nonfeasance in office, after a hearing duly had according to law, from which judgment of removal appeal may be had to the District Court of the County in which such Commissioners reside and said Court shall proceed to try the case de novo. Such Navigation and Canal Commissioners shall be elected on the second Saturday in July of each odd year, beginning with the second Saturday in July, 1961, and shall hold office for a period of six (6) years and until their successors are elected and qualified; provided that the Navigation and Canal Commissioners elected on the second Saturday in July, 1961, shall serve for a period of two (2), four (4), and six (6) years respectively and shall draw lots at the first meeting after they have been elected and taken the oath of office to determine which Commissioner shall serve two (2) years, and which Commissioner shall serve four (4) years, and which Commissioner shall serve six (6) years, the Commissioner drawing number one shall serve two (2) years, the Commissioner drawing number two shall serve four (4) years, and the Commissioner drawing number three shall serve six (6) years or until their successors have been elected and qualified. Thereafter their successors shall be elected for a term of six (6) years, it being the intention that one (1) Commissioner be elected every two (2) years in order that there may be continuity on the Navigation and Canal Commission. Such election shall be ordered by the Navigation and Canal Commissioners and notice of such election shall be given by the Secretary of the Navigation and Canal Commission by posting at least three copies in at least three public places within said District or by publishing the same in some newspaper of general circulation within said District for at least twenty (20) days prior to such election and said election shall otherwise be held according to the general election laws of the State of Texas; provided that this provision requiring three (3) Commissioners to be elected on the second Saturday in July, 1961, shall not apply to Districts which have heretofore adopted Section 18-a of Chapter 27, Acts of the Forty-second Legislature, Third Called Session, 1932, as added by Chapter 92, Acts of the Fifty-first Legislature, 1949, codified as Article 8263e of Vernon's Civil Statutes of the State of Texas, but such Districts adopting said Section 18-a may continue to elect one (1) Commissioner each odd year. And provided further that Districts adopting said Section 18-a may hold their elections on the first Tuesday in December of each even year as provided in Section 18 of Article 8263e, or such Districts adopting said

Section 18-a may continue to hold their elections on the second Saturday in July of each odd year as provided in this Act, and all elections heretofore held on the first Saturday in July of each odd year by such Districts adopting Section 18-a of Article 8263e are hereby ratified and confirmed. Should any vacancy occur through the death or resignation or otherwise of any Commissioner the same shall be filled by the remaining members of such Navigation and Canal Commission; provided that if two (2) or more vacancies occur at the same time a special election may be called by a petition signed by fifty (50) resident property tax-paying voters after notice duly given by publishing or posting for at least twenty (20) days prior to such election, which petition shall contain the judges and clerks for such election who shall jointly canvass the returns and declare the results of such election and issue certificates of election to the successful candidate which election shall otherwise be held according to the general election laws of the State of Texas; provided further that this Section shall not apply to Navigation Districts created pursuant to Section 52 of Article 3 of the Constitution of Texas, or to any such District converted or transformed into Navigation Districts under Section 59 of Article 16 of the Constitution of Texas, by virtue of Sections 1 and 2 of this Act, but the Navigation and Canal Commissioners of such Districts shall be appointed by the Navigation Board or the Commissioners Court of the county having jurisdiction as heretofore provided by law. As amended Acts 1961, 57th Leg., p. 389, ch. 196, § 1.

Emergency. Effective May 22, 1961.

Section 2 of the amendatory act of 1961 provided: "This Act shall be cumulative of

all other acts pertaining to elections in Navigation Districts." Section 3 contained a severability clause.

#### Art. 8263h. Development and improvement of navigation of inland and coastal waters

##### Hearing; navigation board

Sec. 3. In the event the boundaries of the proposed district shall include a city or cities, or a part or parts thereof, acting under special charter granted by the Legislature, the hearing of said petition, hereinafter provided for, shall be had before the County Judge and the members of the Commissioners Court and the Mayor and Aldermen or Commissioners, as the case may be, of said city or cities; and said persons shall constitute a board, to be known and designated as the Navigation Board, to pass upon the petition aforesaid; provided that if there is only one such city or a part thereof within the district and if the charter of such city at any time authorizes the City Council or City Board of Commissioners to be greater in number than the members of the Commissioners Court, then the number of Aldermen or City Commissioners who are entitled to sit and vote as members of the Navigation Board along with the Mayor shall be limited to that number which equals the number of members of the Commissioners Court, and the Aldermen or City Commissioners who shall be entitled to act as members of the Navigation Board shall be determined and designated by the members of the particular City Council or City Board of Commissioners among themselves. The County Judge, and in his absence, the Mayor, shall preside at meetings of the Navigation Board, and each individual member of said Board, including the presiding officer, shall be entitled to a vote. A majority in number of the individuals composing said Board shall constitute a quorum, and the action of a majority of

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the quorum shall control. As amended Acts 1961, 57th Leg., p. 1043, ch. 462, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## CHAPTER TEN—PILOTS

### Art. 8274. [6309], [3800] Pilotage

The rate of pilotage which may be fixed under Articles 8267 and 8269, on any class of vessel shall not, in any port of this state (except as hereinafter provided) exceed Six Dollars (\$6) for each foot of water which the vessel at the time of piloting draws, and such rate shall not in the Port of Galveston exceed Five and 50/100 Dollars (\$5.50) for each foot of water which the vessel at the time of piloting draws, and such rate shall not, in the ports and/or terminals located above the junction of the Neches River with the Sabine-Neches Canal, exceed Seven Dollars (\$7) for each foot of water which the vessel at the time of piloting draws; and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by a pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate, to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel twenty (20) miles outside of the bar, and brings her to it, he shall be entitled to one-fourth ( $\frac{1}{4}$ ) pilotage for such off-shore service, in addition to what he is entitled to recover for bringing her in, but if such off-shore service be declined, no portion of said compensation shall be recovered. As amended Acts 1955, 54th Leg., p. 648, ch. 224, § 1; Acts 1959, 56th Leg., p. 33, ch. 21, § 1; Acts 1961, 57th Leg., 1st C.S., p. 36, ch. 14, § 1.

Emergency. Effective Aug. 11, 1961.

VI. GENERAL PROVISIONS

CHAPTER ELEVEN—IN GENERAL

Art.  
8280—10. Districts wholly within incorpo-  
rated cities; taxes; ad valor-  
em basis; abolition of districts  
[New].

Art.  
8280—11. Directors, employees and engi-  
neers of districts and authori-  
ties; entry upon lands [New].

Art. 8280—1. Accounting system in districts in counties over 500,000—  
Audit

Limitation on creation of water control  
and improvement districts, see art. 7880—  
1a.

Art. 8280—9. Texas Water Development Board

Clearance Fund; payments into; transfers to other special funds

Sec. 10-B. With the exception of proceeds from the sale of Texas Water Development Bonds and proceeds from the sale of bonds of political subdivisions sold in accordance with the provisions of Section 15 hereof, all moneys received by the Board in any fiscal year, including all amounts received as repayment of financial assistance granted under this Act and interest on such loans, shall be paid into the Clearance Fund. Moneys so paid into the Clearance Fund may be transferred at any time to the Texas Water Development Bonds Interest and Sinking Fund until the reserve to be established therein is equal to the average annual principal and interest requirements on all outstanding Bonds issued under this Act. Not later than fifteen (15) days following the end of each fiscal year, any funds standing to the credit of the Clearance Fund as of the last day of the preceding fiscal year shall be transferred to the special funds created by this Act in the following manner:

(a) There shall be determined the amount of interest becoming due on all Water Development Bonds then outstanding, together with the amount of principal of such bonds maturing and becoming payable during such fiscal year, and there shall also be determined the average annual principal and interest requirements on all outstanding bonds issued under this Act. There shall be transferred to the Interest and Sinking Fund, after taking into account any moneys and Securities (as the term is hereafter defined in Section 10-D) on deposit therein, such amount as may be necessary to pay all such principal and interest maturing on such bonds during the fiscal year, together with all collection charges and exchanges thereon plus an amount sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding Bonds issued under this Act. In the event the amount transferred from the Clearance Fund plus the moneys and Securities on hand in the Interest and Sinking Fund are insufficient to pay the interest becoming due and the principal maturing on the Water Development Bonds during the fiscal year, then after the transfer to the Interest and Sinking Fund of so much as is available in the Clearance Fund, the State Treasurer shall transfer out of the first moneys coming into the Treasury of the State of Texas, not otherwise appropriated by the Constitution, such amount as shall be required to pay principal and interest on such Water Development Bonds during such fiscal year.



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(b) If, after making the transfers provided in paragraph (a) of this Section, there remain other moneys in the Clearance Fund, then to the extent possible there shall be transferred from such fund to the Administrative Fund an amount sufficient to cover the appropriation for administrative appropriations of said Board, as authorized by the Legislature, for the fiscal year.

(c) If, after making the transfers provided for in paragraphs (a) and (b) in this Section, there remain other moneys in the Clearance Fund, the balance of such fund shall be transferred at the end of each fiscal year occurring before December 31, 1982, to the Development Fund, and such moneys so transferred may be used for all of the purposes for which the proceeds of the Water Development Bonds were authorized to be used.

(d) Any funds remaining in the Development Fund on December 31, 1982, shall be transferred to the Interest and Sinking Fund.

(e) After December 31, 1982, after making the transfers provided for in paragraphs (a) and (b) of this Section, any balance remaining in the Clearance Fund shall be transferred annually at the end of each fiscal year to the Interest and Sinking Fund until such time as there are on deposit in such Interest and Sinking Fund sufficient moneys to pay all bonds then remaining outstanding with interest to maturities; and when such amount shall be accumulated in the Interest and Sinking Fund, all amounts collected into the Clearance Fund in excess of the amounts needed to cover authorized administrative expenses shall annually be transferred and deposited into the General Revenue Fund of the State of Texas. As amended Acts 1961, 57th Leg., p. 75, ch. 44, § 1.

Emergency. Effective April 6, 1961.

#### Investment of moneys in Interest and Sinking Fund

Sec. 10-D. All moneys standing to the credit of the Reserve portion of the Interest and Sinking Fund may be invested by the Board in direct obligations of the United States or its agencies or in other obligations unconditionally guaranteed by the United States, or Bonds of the State of Texas, or of the several counties or municipalities or other political subdivisions of the State of Texas, except bonds issued by any such political subdivision to finance the projects as herein defined; provided, however, to the extent that the resolution or resolutions authorizing the issuance of bonds hereunder further restrict the investment of such moneys in bonds of the United States, such restrictions shall be binding on the Board, and provided further that money in the Interest and Sinking Fund, except for that which is in the Reserve portion of such Fund, may be invested only in direct obligations of or unconditionally guaranteed by the United States which are scheduled to mature prior to the date money must be available for use for its intended purpose. Surplus moneys in the Development Fund which may not be needed for at least ninety (90) days shall be invested in direct obligations of the United States or its agencies or in other obligations unconditionally guaranteed by the United States maturing on or prior to the contemplated date on which said funds will be needed. All of such bonds and obligations owned in the Interest and Sinking Fund or in the Development Fund are defined as "Securities". The Board may sell any Securities owned in the Interest and Sinking Fund or in the Development Fund at the governing market rate. As amended Acts 1959, 56th Leg., p. 333, ch. 164, § 2; Acts 1961, 57th Leg., p. 75, ch. 44, § 2.

Emergency. Effective April 6, 1961.

**Hearing and determination of application; regulations as to form of application**

Sec. 14. In passing upon such applications, the Board shall consider the needs of and the benefits to the area to be served by the project in relation to the needs and benefits appertaining to other projects requiring State assistance as well as the availability of revenues from all sources of the political subdivision for the ultimate repayment of the costs of such project, including interest, and whether the project can be financed without assistance of the State.

If after consideration of the foregoing, and the consideration of any other relevant factors, the Board finds that the public interest requires State participation in the project, that the project cannot be financed without State assistance in the amount finally approved by the Board, and if the Board makes the further finding that in its opinion the revenues or taxes or both pledged by the political subdivision will be sufficient to meet all of the obligations assumed by the political subdivision within not more than forty (40) years, the Board may approve the application within the limits of this Act.

Application for financial assistance shall be in such form as prescribed herein and by regulations of the Board and shall not be accepted by the Board unless submitted in affidavit form by the officials of the political subdivision as prescribed by the regulations of the Board. Nothing in such regulations shall restrict or prohibit the Board from requiring additional factual material of any applicant. As amended Acts 1961, 57th Leg., p. 13, ch. 8, § 1.

Emergency. Effective Feb. 23, 1961.

**Purchase of bonds of political subdivision by board;  
bond requirements; sale**

Sec. 15. After the Board has examined an application of a political subdivision for financial assistance from the Fund and determined by resolution that same should be approved, the Board may give financial assistance to the political subdivision by the purchase with moneys out of the Texas Water Development Fund of bonds or other securities issued by the political subdivision for the purpose of providing funds to finance a project. The Board is hereby empowered to purchase such political subdivision bonds or other securities even though such bonds or other securities be secondary, or subordinate to other bonds or other securities issued by the political subdivision to finance the same project for which assistance from the Fund is sought. The Board shall never purchase bonds or other securities which have a maturity date in excess of forty (40) years from date of issuance. The Board shall never purchase bonds or other securities of a political subdivision in excess of Fifteen Million Dollars (\$15,000,000) for any one project. The Board shall never purchase from any single political subdivision bonds or other securities of such political subdivision in excess of Fifteen Million Dollars (\$15,000,000). Such bonds and other securities purchased from moneys in the Fund by the Board shall bear whichever of the following rates of interest is greater: (a) the weighted average effective interest rate on all State bonds theretofore sold under the provisions of this Act plus one half ( $\frac{1}{2}$ ) of one per cent (1%); or (b) in the event a portion of a project is financed with funds secured from a source other than the Board, the effective interest rate of the bonds sold by the issuing agency for the purpose of providing the remaining funds which are required for the project. The bonds shall bear coupons evidencing interest at such a rate or combina-

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tion of rates as shall approximate the effective rate as nearly as the Board shall deem practicable, and the effective rate shall be arrived at by the payment of premiums or the deduction of discounts as necessary. Before purchasing any bonds or other securities of a political subdivision, the Board shall be assured that such bonds or other securities have been approved by the Attorney General and registered by the Comptroller of Public Accounts and after such approval and registration and sale at not less than par and accrued interest, said bonds shall be valid, binding and incontestable. The Board is fully empowered and authorized to sell or dispose of political subdivision bonds purchased with moneys out of the Fund, provided that such bonds are sold at not less than par and accrued interest. The proceeds from such sale shall be deposited to the credit of the Fund and used in the same manner as other funds deposited therein, except accrued interest shall be deposited in the Interest and Sinking Fund. Should the Board determine to sell such political subdivision bonds, competitive bids therefor shall be received and notice of such sale shall be given and the sale conducted in the same manner as in the case of a sale of the State bonds authorized by this Act; provided, however, that the Board shall first have offered said bonds at their par value plus accrued interest to the issuing political subdivision at least thirty (30) days prior to the date of requesting competitive bids; and provided such political subdivision shall have failed within such thirty-day period to give notice to said Board of its desire to acquire such bonds at par and accrued interest. As amended Acts 1961, 57th Leg., p. 13, ch. 8, § 2.

Emergency. Effective Feb. 23, 1961.

**Art. 8280—10. Districts wholly within incorporated cities; taxes; ad valorem basis; abolition of districts**

**Eligible districts; definition**

Section 1. An "Eligible District" under this Act is a governmental agency and body politic and corporate heretofore created (whether by General or Special Law) pursuant to authority conferred by Section 59 of Article XVI of the Constitution of Texas, for the purpose of the reclamation and drainage of overflowed lands, which district at the time of creation was comprised of territory situated wholly within the corporate limits of an incorporated city. This Act shall not apply in the case of any such district the territory of which is now situated in more than one (1) incorporated city. As amended Acts 1961, 57th Leg., 1st C.S., p. 16, ch. 3, § 1.

Emergency. Effective Aug. 4, 1961.

**Resolution to assess, equalize and collect taxes; ad valorem basis; tax assessor and collector; board of equalization**

Sec. 2. An eligible district, in lieu of other methods that may have heretofore been prescribed (whether by General or Special Law) may, by resolution adopted by its governing body elect to have its own tax roll, to have taxes assessed, equalized and collected on an ad valorem basis in the time, mode and manner and by the officials prescribed by Chapter 25 of the General Laws of the 39th Legislature, Regular Session, 1925, as amended, including but not limited to the following: to provide for a tax assessor and collector; to determine property subject to taxation; to provide for rendition of taxable property; to provide for a taxpayer's oath; to provide for verification by tax assessor and collector of property rendered; to provide for penalties for making false oaths; to pro-

vide for a date for rendition of property; to provide for a Board of Equalization; to provide for an oath for the Board of Equalization; to provide when the Board of Equalization shall convene; to provide for the Board of Equalization to examine assessment lists; to provide who may file complaints; to provide for a notice of hearing and hearing for protests; to provide for duplicate tax rolls; to provide for books of account and an audit; to provide when taxes are due and payable; to provide for delinquent taxes, collection and sale of property; to provide that taxes are not barred by any law of limitations and no law providing for a period of limitations as to debts or actions shall apply to such taxes; to provide for penalties and interest; to provide for publication of delinquent tax roll; to provide for attorney to bring suit for delinquent taxes; to provide for redemption of delinquent property; and to provide for anything necessary for the accomplishment of the foregoing and to carry out the purposes of this Act. Upon the adoption of such resolution, the provisions of such laws shall be fully applicable to such eligible district except as herein provided and the governing body of such district shall immediately appoint a tax assessor and collector and a Board of Equalization. Any person who owns land within such district subject to taxation may be appointed as Tax Assessor and Collector or a member of the Board of Equalization.

Abolition of district; ordinance; vesting of properties and assets in city; liability for bonds; taxes; refunding bonds

Sec. 3. An eligible district in addition to other methods that heretofore or may hereafter be prescribed, may be abolished in the manner herein provided. The governing body of the city in which such district was located as aforesaid shall be authorized by majority vote of its members, to adopt an ordinance abolishing such district if the governing body finds: (a) that such district is no longer needed; or (b) that the services furnished or functions performed by such district can be performed by the city; and (c) that it would be to the best interests of the citizens and property within the district and the city for the district to be abolished; and (d) that the valuation of taxable property within the district, according to the last approved tax rolls of the city, when multiplied by the city's then current rate of tax on the one hundred dollars valuation, will produce, assuming collection of 95% of such tax, an amount of money which is not less than the total principal and interest requirements of any outstanding bonds of the district which are scheduled to mature or become due within one year from the date of the adoption of such ordinance; and (e) the governing body of the eligible district shall have adopted a resolution evidencing consent of such body to the abolition of such district.

Upon the adoption of such an ordinance, an eligible district shall be abolished and dissolved and all properties and assets of such district shall thereupon vest immediately in such city and such city shall thereby assume and become liable for all bonds and other obligations for which such district is liable. Such city shall thereafter perform all services and functions theretofore performed or rendered by said district. When any district bonds, warrants or other obligations payable from ad valorem taxes have been assumed by such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of and interest on, such bonds, warrants or obligations as they respectively become due and payable. Such city shall be authorized to issue re-

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funding bonds in its own name to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931 as heretofore or hereafter amended.

#### Impairment of rights of bondholders

Sec. 4. Neither the passage of this Act nor any action taken by any city, pursuant to the authorization hereby given, shall impair any right which the holder of any bond or bonds might otherwise be entitled to avail himself of, in the event of any failure on the part of such city to pay any such bond or any interest thereupon when due in accordance with the terms and provisions of such bond.

#### Validation of proceedings and actions; exception

Sec. 5. All proceedings and actions heretofore taken in the creation and organization of eligible districts are hereby in all things ratified, approved and validated as of the respective dates of such proceedings and actions and without in anywise limiting the generality of the foregoing the following matters are hereby in all things ratified, approved and validated: all actions of the governing body of such districts in calling and holding hearings on the exclusion of lands or other property from the district; the adoption of the engineer's report; the calling and holding of elections for the election of officials and for the authorization of bonds and the canvassing of the returns and declaration of the result of such elections; and all such proceedings and actions are hereby ratified, approved and validated notwithstanding that any of such proceedings and actions may not have been had or accomplished in all respects in accordance with appropriate statutory provisions relating thereto. Provided, however, that the provisions of this Act shall not operate to validate any proceedings or actions which upon the effective date of this Act are involved in litigation which attacks the validity of same. Acts 1961, 55th Leg., p. 383, ch. 193.

Effective 90 days after May 29, 1961, date of adjournment.

Assessor, collector and equalization board acting for included municipality or district, see art. 1066b.

Conservation and reclamation districts,

Authority to incur indebtedness and levy taxes, see art. 7803.

Indebtedness, removal of limitations, see art. 8197.

Levying taxes, see art. 8197c.

Power to tax, see art. 8196.

Drainage districts,

Abolition, see art. 8193-1.

Assessment and collection of taxes, see art. 8140.

Board of equalization, see art. 8145.

Conversion into conservation and reclamation district, see art. 8176a, § 2.

Duty of collector of taxes, see art. 8143.

Maintenance taxes, see art. 8138.

Levying taxes in drainage districts, see art. 8197c.

Water control and improvement districts,

Adoption of plan of taxation, see art. 7880-77a.

Ad valorem basis for tax levy, see art. 7880-130.

Benefit basis for tax levy, see art. 7880-130.

Board of equalization, see art. 7880-61.

Levy of taxes, see art. 7880-33.

Manner of levying assessment and collection of taxes, see art. 7880-132.

Tax assessor and collector, see art. 7880-54.

Tax levy; investment of sinking fund, see art. 7880-91.

Uniform assessment of benefits, see art. 7880-134.

Water improvement districts,

Benefit plan of taxation, see art. 7779.

Incurring indebtedness and levying taxes, see art. 7807e.

Art. 8280—11. Directors, employees and engineers of districts and authorities; entry upon lands

The directors, employees and engineers of any district or authority created by Act of the Legislature of the State of Texas, under Article XVI Section 59 of the Constitution, and having the power to provide a water supply for municipal or other uses, shall have the same authority as is conferred upon the directors, employees and engineers of water control and improvement districts by Section 49, of Chapter 25, Acts of the 39th Legislature with reference to making surveys and attending to other business of such district or authority. Acts 1961, 57th Leg., p. 974, ch. 422, § 1.

<sup>1</sup> Article 7880—49.

Emergency. Effective June 16, 1961.

Water control and improvement districts, entry of directors, employees and engineers upon lands, see art. 7880—49.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art.

8280—147a. Board of directors of Northeast Texas Municipal Water District; bonds; validation [New].

Art. 8280—119. San Antonio River Authority

Sec. 1.

(h) "Professional services" shall mean those services rendered, either individually or by firms, by accountants, attorneys, engineers, surveyors, geologists, physicians, surgeons, laboratory technicians, bond brokers, fiscal advisers, appraisers, statisticians, researchers and by such other vocations, callings, occupations or employments involving labor, skill, education, special knowledge and compensation or profit, but the labor and skill involved therein being predominantly mental or intellectual rather than physical or manual. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 1.

Emergency. Effective May 26, 1961.

Sec. 2. District Created. Under the authority of, and in pursuance with the policy of, Section 59 of Article 16, of the Constitution of Texas, there is hereby created within the State of Texas, in addition to the Districts into which the State has heretofore been divided, a Conservation and Reclamation District to be known as "San Antonio River Authority" (hereinafter called the "District"), which is hereby declared to be a governmental agency, a municipality, body politic and corporate, vested with all the authority and full sovereignty of the State, in behalf of the State, insofar as intended by this Act, and with the authority to exercise the powers, rights, privileges and functions hereinafter specified. The creation of such District is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas, including but not limited to the construction, maintenance and operation of navigable canals or waterways, hereinafter authorized, and the control of the waters of those parts of all rivers, streams

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and tributaries thereof which are within the boundaries of the District as hereinafter defined. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 2.

Emergency. Effective May 26, 1961.

Sec. 2-a. Boundaries of the District. The District shall include all of that part of the State of Texas within the boundaries of the Counties of Bexar, Wilson, Karnes and Goliad.

It is hereby found and determined that all of the land included in the District will be benefited by the exercise of the power conferred by this Act. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 3.

Emergency. Effective May 26, 1961.

Sec. 3. Powers of the District. The District is hereby invested with all of the powers of the State of Texas under Article 16, Section 59, of the Constitution of the State of Texas to effectuate the construction, maintenance and operation of navigable canals or waterways, to effectuate flood control, to effectuate the conservation and use, for all beneficial purposes, of ground, storm, flood and unappropriated flow waters in the District, to effectuate irrigation, to effectuate soil conservation, to effectuate sewage treatment, to effectuate pollution prevention, to encourage and develop parks, recreational facilities and to preserve fish, to effectuate forestation and reforestation, and to do all things as are required therefor, subject only to: (i) declarations of policy by the Legislature of the State of Texas as to the use of water; (ii) continuing supervision and control by the State Board of Water Engineers and any board or agency which may thereafter succeed to its duties; (iii) the provisions of Section 4, page 212, Acts of the Thirty-fifth Legislature, 1917, as subsequently amended (codified under Article 7471, Vernon's Civil Statutes of the State of Texas), prescribing the priorities of uses for water; and (iv) the rights heretofore or hereafter legally acquired in water by municipalities and other users. Subject to the foregoing, it shall be the duty of the District to exercise for the greatest practicable measure of the conservation and beneficial utilization of all ground, storm, flood and unappropriated flow waters of the District, in the manner and for the particular purposes specified hereinafter in this Section 3 and elsewhere in this Act the following powers, rights, privileges and functions, to wit:

(a) Navigation:

(1) To promote, construct, maintain and operate, and/or to make practicable, promote, aid and encourage, the construction, maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto using the natural bed and banks of the San Antonio River to its junction with the Guadalupe River where practicable and thence traversing such route as may be found by the District to be most feasible and practicable to connect with the Intracoastal Canal and/or with any new canal to be constructed and/or with any harbor at or near San Antonio Bay or the Gulf of Mexico, and also using such new correlated artificial waterways, together with all locks and other works, structures and artificial facilities as may be necessary and convenient for the construction, maintenance and operation of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto. The District is empowered to construct, or cause to be constructed, said system of artificial waterways, canals, locks, works and other facilities so as to connect the watershed area of the San Antonio River, including navigation to or at a point near the City of San Antonio, with the Intracoastal Canal and/or with any new canal to be constructed and/or with any harbor at or near San Antonio Bay or the Gulf of Mexico;

(2) To control, develop, store and use the natural flow and floodwaters of the San Antonio River and its tributaries for the purpose of operating and maintaining said navigable canals or waterways and all navigational systems or facilities auxiliary thereto, provided, however, that such navigational use shall be subordinate to consumptive use of water, and navigation shall be incidental thereto;

(3) In the case of the construction of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto by the Federal Government or otherwise, the District shall have the power to construct, maintain and operate lateral connecting canals and turning basins to serve local needs, and shall also have the power to provide, construct, acquire, purchase, take over, lease from others, lease to others, and to maintain and operate, develop, regulate and/or by franchise control wharves, docks, warehouses, grain elevators, bunkering facilities, belt or terminal railroads, floating plants, lighterage, towing facilities, and all other facilities incident to or in aid of the efficient operation and development of said canals or waterways and all navigational systems or facilities auxiliary thereto, and any ports incident thereto, whether the same be upon land or upon water;

(4) In the event the construction and/or maintenance and operation of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto is taken over by the Federal Government or any agency of the Federal Government, then and in such event the District shall be fully authorized to make and enter into any such contracts as may be lawfully required by the Federal Government, including such assignments and transfers of property and rights of property and easements and privileges and any and all other lawful things and acts may be necessary and required in order to meet the requirements of the Federal Government or any agency of the Federal Government in taking over the construction and/or maintenance and operation of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto;

(5) The District may grant a franchise or right to any person or body politic or corporate for the use of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto or any facility thereof in aiding navigation and no person or body politic or corporate may provide, maintain or operate any facility of aid of navigation in any way connected with said navigable canals or waterways and all navigational systems or facilities auxiliary thereto and intended for use by the public within the meaning and intent of this Act, except by and under the franchise granted by this District, in the form of an ordinance as provided by this Act, which franchise may be for any term not to exceed fifty (50) years. Such ordinance granting franchise may contain provisions for the payment of reasonable fees, and/or other charges to be paid to the District, and shall contain provisions adequate to regulate the fees, tolls, rates or exactions to be demanded for the use of, or service to be rendered by any means or facility to be provided or operated under any such franchise, to the end that the same will be uniform, reasonable, and without discrimination against any person, both as to charges and the conditions of use or service, and such ordinance shall contain all provisions reasonably required to procure service adequate to serve the public necessity and convenience. The District may grant a franchise for the design, construction, repair, enlargement, alteration, maintenance, operation of, and service from, or use of any facility to be provided for use in aid of navigation on said navigable canals or water-



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ways and all navigational systems or facilities auxiliary thereto, whether upon land, or in or upon water. The right hereby granted shall include the right to require uniform and adequate analytic accounting systems and forms, periodic verified reports based thereon, and the right of audit by the District, and other reasonable regulations designed to protect the public. In order to procure observance of the conditions of a franchise granted hereunder, and/or compliance with the rules and regulations established by ordinance of the District (to be adopted and promulgated as elsewhere is provided in this Act) hereunder, such ordinance may provide reasonable and commensurate penalties fixed by General Law in Texas, and not to exceed the limit for penalties as fixed elsewhere in this Act. The forfeiture or suspension of a franchise granted under this Act, where not otherwise provided in any such franchise, may be only because of discrimination in rendering service, affording use, or in taking or demanding a toll, rate or charge. Forfeiture or suspension of a franchise granted hereunder, unless otherwise provided therein, shall be upon a decree of a District Court within the County in which this District may maintain its general office. The District may likewise by ordinance establish rules necessary or designed to protect the physical property owned by it, or physical property owned or operated by another under a franchise hereunder granted, and/or to effect the safety or efficient use of the same, and in such ordinance may provide reasonable and commensurate penalties for the violation thereof, which penalties shall be cumulative of other penalties provided by the General Law of Texas, and not to exceed the limit for penalties as fixed elsewhere in this Act;

(b) Flood Control: To prevent and aid in preventing damage to persons and property by the overflow of any and all rivers, streams, or tributaries thereof within the District;

(c) Water Conservation, Storage, Procurement, Distribution and Supply:

(1) To store and conserve to the greatest beneficial use the storm, flood and unappropriated flow waters of any and all rivers, streams or the tributaries thereof within the District, so as to prevent the escape of any water without maximum beneficial use either within or without the District;

(2) For the conservation of water for uses either within or without the District, including providing water supply for cities and towns, and the right to sell water and stand-by service to any person, firm, or corporation, including cities and towns and other public agencies within or without the District; provided that it is the intent of this Act to establish a District that is concerned primarily with the conservation, control, storage, distribution and sale of water in bulk quantities in the public interest and only incidentally with the retail sale of water insofar as it does not compete with municipal water distributors and then only when necessary or convenient as a service to the public;

(3) To acquire water appropriation permits either within or without the District directly from the State Board of Water Engineers or to purchase or otherwise acquire such permits or certified filings either within or without the District from the owners thereof;

(4) To purchase water, water supply facilities on conservation storage capacity either within or without the District from any person, firm, corporation, State agency or other public agency, or from the United States or its agencies;

(5) To execute water supply contracts with users of water within or without the District. Included in the services for which the Dis-

trict may contract, and for which it may make charges, is that of stand-by service as well as for the actual delivery of water;

(6) To provide water for the development of commercial and industrial enterprises within or without the District;

(7) To bring water into the boundaries of the District;

(8) To construct, acquire, equip, to acquire storage rights at, and operate and maintain dams and reservoirs, either within or without the District, had in carrying out the powers conferred upon the District, or to exercise such powers in conjunction with others;

(9) To contract, operate and maintain or otherwise provide water supply lines, water purification and water pumping systems and facilities either within or without the District;

(10) Power to execute contracts with municipalities and others involving the construction of reservoirs, dams, water supply lines, water purification and pumping facilities, and the furnishing of water supply service substantially in the manner prescribed by Chapter 342, Acts of the Regular Session of the Fifty-first Legislature, for Districts organized and created pursuant to Article 16, Section 59, of the Constitution, extended so as to permit such contracts with individuals, partnerships, and all classes of corporations, and to permit the inclusion of provisions for the operation, maintenance and ownership of such properties, but the powers granted the District in this Subsection are not to be considered a limitation on the powers, rights, privileges and functions otherwise granted herein;

(11) To acquire from the United States Government, through the Secretary of the Army or the Secretary of the Interior or any other of its officials authorized to make such contracts, or from the State of Texas or any agency thereof, or from any privately financed reservoirs, unsold conservation storage capacity at any dam within or without the District now constructed or to be constructed either by or with the assistance of the United States Government or the State of Texas, or by both. It may acquire additional conservation storage capacity which may be provided at any such dam;

(d) Irrigation: To provide water for irrigation of lands within and without the District, and incident thereto, to construct, operate and maintain supply lines and pumping systems and facilities either within or without the District;

(e) Soil Conservation: For the conservation of soils and other surface resources within the District against destructive erosion, thereby preventing the increased flood menace incident thereto, and for the prevention of sedimentation and siltation of lands, channels and reservoirs, including the right either to act as local sponsoring agent of upstream soil and water conservation and flood prevention projects authorized by State or Federal Agencies in conjunction with Soil Conservation Districts or to aid and supplement the work of such upstream soil and water conservation and flood prevention projects, all in furtherance of the 'Master Plan' as defined in Section 4-a. In connection therewith, the District is authorized to make arrangements satisfactory to the Secretary of Agriculture of the United States for defraying costs of operating and maintaining such projects, in accordance with regulations presented by the Secretary of Agriculture; provided, however, that any portion of the total construction cost of any such project which is allocable to flood control and/or soil conservation shall be paid for or financed by funds which have their source in the county in which each

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particular project is situated and which funds may be of any kind or character, except taxes collected in accordance with the provisions of Sections 15-a and 15-b of this Act;

(f) Sewage Treatment: As a necessary aid to the conservation, control, preservation, purification and distribution of surface and ground waters within the District, the District shall have the power to construct, own, operate, maintain or otherwise provide sewage gathering, treatment and/or disposal services, to charge for such services, and to make contracts in reference thereto with counties, municipalities and others;

(g) Pollution Prevention: To provide for the study, correcting and control of both artificial and natural pollution of all ground or surface waters within the District and any river, stream or tributary thereof within the District. In this connection, the District is given the power by ordinance to promulgate rules and regulations with regard to such pollution, both artificial and natural, with the right of policing by said District to enforce such rules and regulations and of providing reasonable and commensurate penalties for the violation of any such rules and regulations, which penalties shall be cumulative of any penalties fixed by General Law in Texas, and not to exceed the limit for penalties as fixed elsewhere in this Act;

(h) Parks, Recreational Facilities and Preservation of Fish: For the encouragement and development of parks, recreational facilities and the preservation of fish, the District shall have the power to acquire additional land adjoining any permanent work of improvement constructed within the District for the purpose of developing parks, or recreational facilities. The District may negotiate contracts with any county, municipality, municipal corporation, person, firm, corporation, non-profit organization, or State or Federal agency for the operation and/or maintenance of any such park, or recreational facility. The preservation of fish shall be in accordance with rules and regulations, if any, prescribed by the Game and Fish Commission of the State of Texas;

(i) Forestation and Reforestation: To forest and reforest and to aid in foresting and reforesting of all areas within the District;

(j) Contractual: To make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, with the United States, its agencies, the State of Texas, its agencies, counties, cities, all municipal corporations, political subdivisions and districts, and with private persons, partnerships, associations and corporations. The District shall make and execute such contracts and instruments in accordance with the following procedures:

(1) Concerning any contract for the sale, purchase, procurement, distribution and/or supply of water or conservation storage capacity, or for the treatment, transmission and disposal of sewage, or for the construction of a navigable canal or waterway, or any contract authorized by Section 1, Chapter 84, page 140, Acts of the Fifty-second Legislature, 1951, as subsequently amended (codified under Article 7048b, Vernon's Civil Statutes of the State of Texas), the Board of Directors shall cause a notice describing the general nature of such contract to be published once each week for three (3) consecutive weeks in a newspaper of general circulation in each county in the District. In addition to such publication, a copy of such notice shall be transmitted by the Manager of the District, by registered or certified mail, to the County Judge of each county within the District, to the Mayor of each incorporated municipality within the District, and to the Manager or presid-

ing Director of every water district within the District which has registered with the State Board of Water Engineers under Chapter 62, page 237, Acts of the Fifty-fourth Legislature, Regular Session, 1955, as subsequently amended (codified under Article 8280—7, Vernon's Civil Statutes of the State of Texas), such notice to be mailed not less than twenty (20) days before the regular meeting at which such contract is to be considered for the first time. Such contract may be considered and acted upon at the regular meeting of the Board next following the last date of publication or, without further notice, at any regular meeting thereafter. The affirmative vote of at least seven (7) members of the Board shall be required for the approval or confirmation or ratification of any such contract. Of those seven (7) affirmative votes, at least four (4) affirmative votes shall be cast by Board members from Bexar County, at least one (1) affirmative vote shall be cast by a Board member from Wilson County, at least one (1) affirmative vote shall be cast by a Board member from Karnes County, and at least one (1) affirmative vote shall be cast by a Board member from Goliad County. The District may use any such contract as the sole basis, or as a supplement to the basis, for securing its bonds;

(2) Concerning any construction, maintenance, operation or repair contract, contract for the purchase of material, equipment or supplies or any contract for services other than professional services, the Board shall award such contract to the lowest and best bidder after publication of a notice to bidders once each week for three (3) consecutive weeks before awarding the contract if such contract will require an estimated expenditure of more than Two Thousand Dollars (\$2,000) or if such contract is for a term of six (6) months or more. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment, or supplies to be purchased, or the non-professional services to be rendered, and states where and the terms upon which copies of the plans, specifications or other pertinent information may be obtained. Members of the Board of Directors shall be ineligible to submit such bids. The publication of said notice shall be in a newspaper of general circulation in the county or the counties in which the contract is to be performed, said newspaper or newspapers to be designated by the Board of Directors. In addition to publishing said notice in a newspaper of general circulation, said notice may also be published in any other appropriate publication. Bids shall be opened at the place specified in the published notice and shall be announced by the Manager or other officer designated by the Board; provided, however, that said place of opening and announcing the bids shall always be open to the public. According to the amount of the lowest and best bid, the District may thereafter make and execute any such contract by and through either its Executive Committee or its Board of Directors. Any provision of this Subsection to the contrary notwithstanding, the District may purchase surplus property from the United States by negotiated contract and without the necessity of advertising for bids.

(k) General:

(1) This District hereby is vested with such title and right of control as the State has, or may have, in, to and concerning the natural bed and banks of the San Antonio River in its entire length, and all of its tributaries as are within the District, as said District is defined in Section 2-a of this Act, and the District hereby is further vested with such title and right of control as the State has, or may have, in, to and concern-

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ing the natural bed and banks of any other navigable stream or tributary thereof as may be situated within the District, as said District is defined in Section 2-a of this Act; which investment, however, shall be in trust, and to authorize said District to make such uses, and/or disposition of such lands and rights (and the proceeds, income, revenues, or trading values thereof) as in actual experience may prove to be reasonably required for, or in aid of, the accomplishment of the purposes of this Act;

(2) To make preliminary investigations and surveys in the manner and for the purposes specified in said Chapter 25 (either independently at its own cost, or jointly with others, or to contribute to the cost thereof when done by another), whereby to procure cooperation by the Government of the United States of America, to the end that any project lawfully within the purposes of this Act may be approved for construction as a Federal project under such contractual terms and conditions as may be demanded by the Federal Congress;

(3) To expend all sums reasonably deemed to be necessary or expedient for seeking cooperation in accomplishing the objects of this Act from the Federal Government, and/or any and all other persons, creatures, or entities, whether natural, or creatures of law or contract;

(4) Subject to the provisions of this Act from time to time to sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the District;

(5) To overflow and inundate any public lands and public property and to require the relocation of roads and highways in manner and to the extent permitted to districts organized under General Laws pursuant to Section 59 of Article 16 of the Constitution of the State of Texas. 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 railroad, or street railway, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District;

(6) 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 or convenient to the exercise of such powers, rights, privileges, and functions;

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

(8) To adopt, use, and alter a corporate seal;

(9) To adopt and to amend its bylaws for the management of its affairs;

(10) To appoint officers, agents, employees and professional consultants, none of whom shall have any interest, direct or indirect, in any contracts awarded by the District;

(11) To prescribe the duties and fix the compensation of all officers, agents, employees and professional consultants;

(12) To acquire by purchase, lease, gift, or in any other lawful manner and to maintain, use, and operate any and all property of any kind, real, personal or mixed, or any interest therein, within the boundaries of the District, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation or, at the option of the District, in the manner provided by the Statutes relative to

condemnation by Districts organized under General Law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

(13) To condemn lands used or dedicated for cemetery purposes in the manner provided by the General Law of Texas where reasonably necessary to effectuate the powers, rights, privileges and functions of the District, provided, however, that, when such power of condemnation is sought to be exercised with respect to any Perpetual Care cemetery, as defined in Article 912a, Vernon's Civil Statutes of the State of Texas, as to the condemnation of any such Perpetual Care cemetery or portion thereof, jurisdiction is hereby conferred for such purpose on the District Court or Courts of the county in which such cemetery land or any part thereof may be located, and such condemnation action shall likewise involve the issue of the removal of the dedication thereof as such Perpetual Care cemetery and the issue of the necessity for such taking;

(14) To borrow money for its corporate purposes and to execute proper notes or other evidences of indebtedness, and without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, and in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to make and issue its negotiable bonds for moneys borrowed in the manner and to the extent provided in Section 16. Nothing in this Act shall authorize the issuance of any bonds, notes, or other evidences of indebtedness of the District, except as specifically provided in this Act, and no issuance of bonds, notes, or other evidences of indebtedness, except as specifically provided in this Act, shall ever be authorized except by an Act of the Legislature;

(15) To obtain loans from and accept grants from the United States and its agencies, and from the State of Texas, and its agencies, and it shall have the right to participate in and be the beneficiary of any plan which may be evolved by the State or Federal Government for guaranteeing or otherwise subsidizing the obligations of the District;

(16) The District shall have the power to adopt and promulgate by ordinance all reasonable rules and regulations for purposes elsewhere provided in this Act and generally to secure and protect any and all of its property and any and all of its works of improvement, and to regulate residence, hunting, fishing, boating and camping, and all recreational and business privileges on any navigable river of the District, or any reservoir of the District, or upon any land owned by the District. The District may prescribe reasonable and commensurate penalties for the violation of any and all such rules and regulations of the District, which penalties shall be cumulative of any penalties fixed by the General Law in Texas and shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for not more than one hundred eighty (180) days, or may provide for both such fine and imprisonment. No rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the District may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in each county in which it is to be effective. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; one (1) notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice

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advice that the full text of the regulations sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the third publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinance of a city of the State. The District shall be primarily liable for any court costs incurred hereunder, and the cost to maintain any offender committed for imprisonment hereunder. Any fine imposed in any such proceeding and paid in money shall be payable to this District and applied as its Board may direct;

(17) To designate an official newspaper of the District in each county in the District, each of which newspapers shall be a newspaper having general circulation in the county in which it is situated;

(18) To acquire such rights-of-way as are necessary to construct, operate and maintain such roads as are necessary for ingress and egress to any work of improvement or to any park, recreational facility, or fish or wildlife preserve or reserve;

(19) To grant concessions and franchises upon the premises of any works of improvement or any park, recreational facility or fish or wildlife preserve or reserve to any person or corporation;

(20) When germane to the accomplishment and the purposes of this Act, and not otherwise adequately provided by Chapter 25, or provided elsewhere in this Act, the Directors of the District shall have the power to adopt and promulgate ordinances, which may be done by a majority (except as specifically provided elsewhere in this Act) of those Directors present at any meeting held in compliance with the provisions of the by-laws at which there must be present a majority of the Board, constituting a quorum. No notice shall be required before the passage of such ordinance, except such notices of special or regular meetings of the Board as may be provided in the bylaws and except as specifically provided elsewhere in this Act. After having adopted such ordinances, the Directors shall cause certified copies of same to be forthwith filed as a record in the office of the County Clerk of each county situated in whole or in part within the District, and within which such ordinance is intended to have application; whereupon the ordinance shall be in full force and effect, and thereafter all courts and persons shall be held to have knowledge thereof, just as though the same had been embraced in the body of this Act, and the County Clerk in any county is authorized and directed to file and record all certified copies of such ordinances in the Deed Records of such county and to charge therefor the same fees as is provided for recording deeds of conveyance. And the powers of said District to adopt ordinances shall include, among other things, as follows: in any case in which said Chapter 25 does not provide a specific power or right germane to, or appropriate, or adequate to accomplish an object of this Act, and such specific power has been, or hereafter may be, conferred by law on Counties, Cities, Water Improvement Districts, Water Control and Improvement Districts, Drainage Districts, Navigation Districts, Canal Corporations, Channel and Dock Corporations, Deep Water Corporations, Railway Corporations, Terminal Railway Corporations, Telegraph and Telephone Corporations, or other like creatures of the law, then, to the extent required to make adequate hereto the powers and rights of this District, it may by ordinance adopt and have as part of the law of its being so much of the power and right of any of the herein designated creatures of

the law as will enable it effectively to accomplish that purpose of this Act. The adoption of a power or mode of procedure hereunder shall not be held to include any incidental limitation which would impede the lawful accomplishment of the purposes of this Act. As to this, there shall be no limit hereof save such as would violate the provisions of the Constitution of the United States and the State of Texas concerning the rights of others;

(21) This District shall have all such powers and rights, and regulations for government and procedure, as are contained in said Chapter 25, which shall be cumulative of those provided by this Act, and those rules for procedure which may be provided by ordinances adopted by the District under other provisions of this Act. As amended Acts 1957, 55th Leg., p. 1469, ch. 504, § 1; Acts 1961, 57th Leg., p. 466, ch. 233, § 4.

Emergency. Effective May 26, 1961.

Sec. 4. Repealed. Acts 1961, 57th Leg., p. 466, ch. 233, § 5.

Emergency. Effective May 26, 1961.

Sec. 4-a. Master Plan. It shall be the duty of the District to prepare a master plan for the maximum development of the soil and water resources of the entire District, including plans for the complete utilization, for all economically beneficial purposes, of the water resources of the District. The master plan shall be filed with and approved by the State Board of Water Engineers. The master plan may be amended or supplemented from time to time by the District, provided that a copy of such amendment or supplement to the master plan shall be filed with and approved by the State Board of Water Engineers. The first master plan, as amended or supplemented, shall be effective for a period of ten (10) years, as computed from the date of its approval by the State Board of Water Engineers. Upon the expiration of each ten-year period, the District shall revise its master plan and a copy of said revised master plan shall be filed with and approved by the State Board of Water Engineers. Prior to the adoption of the master plan, or any amendment or supplement thereto or revision thereof, the Board of Directors shall give notice to the public that it proposes to adopt such master plan, or any amendment or supplement thereto or revision thereof, by causing a notice describing its general nature to be published once each week for three (3) consecutive weeks in a newspaper of general circulation in each county in the District. In addition to such publication, a copy of such notice shall be transmitted by the Manager of the District, by registered or certified mail, to the County Judge of each county within the District, to the Mayor of each incorporated municipality within the District, and to the Manager or presiding Director of every water district within the District which has registered with the State Board of Water Engineers under Chapter 62, page 236, Acts of the Fifty-fourth Legislature, Regular Session, 1955, as subsequently amended (codified under Article 8280-7, Vernon's Civil Statutes of the State of Texas), such notice to be mailed not less than twenty (20) days before the regular meeting at which the master plan, or any amendment or supplement thereto or revision thereof, is to be considered for the first time. Such master plan, or any amendment or supplement thereto or revision thereof, may be considered and approved at the regular meeting of the Board next following the last date of publication or, without further notice, at any regular meeting thereafter. The affirmative vote of at least seven (7) members of the Board shall be required for the approval of said master plan, or any amendment or supplement thereto or revision thereof. Of those seven (7) affirmative votes, at least four (4) affirmative votes shall be cast by Board members from Bexar County, at



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least one (1) affirmative vote shall be cast by a Board member from Wilson County, at least one (1) affirmative vote shall be cast by a Board member from Karnes County, and at least one (1) affirmative vote shall be cast by a Board member from Goliad County. After the master plan shall have been filed with the State Board of Water Engineers, the plan of any water development proposal within the entire District not now or hereafter exempted by law from the requirement for procuring a permit shall be submitted to the State Board of Water Engineers, and a copy thereof shall be furnished to the District at its principal office by the party proposing the development, who shall notify the Board of Water Engineers of compliance with this provision. The District shall make its recommendations in reference to the proposed development to the State Board of Water Engineers within sixty (60) days after receipt of a copy of such water development plan. The State Board of Water Engineers shall hold a hearing at which the proponents of the proposed water development plan and the District shall have an opportunity to present their evidence and recommendations to the State Board of Water Engineers. The State Board of Water Engineers shall approve or disapprove such proposed water development plan notwithstanding any provision of the District's master plan in accordance with the provisions of Chapter 1, Title 128, Revised Civil Statutes of Texas, as amended. Said master plan, and all amendments or supplements thereto or revisions thereof, shall be prepared so as to effectuate Chapter 128, Sections 4 and 5, page 217, Acts of the Forty-second Legislature, 1931 (codified under Articles 7472c and 7472d, Vernon's Civil Statutes of the State of Texas) and Chapter 11, page 23, Acts of the Fifty-fifth Legislature, First Called Session, 1957 (codified under Article 7472d-1, Vernon's Civil Statutes of the State of Texas), and the rules and regulations of the State Board of Water Engineers. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 8.

Emergency. Effective May 26, 1961.

Sec. 5. Repealed. Acts 1961, 57th Leg., p. 466, ch. 233, § 6.

Emergency. Effective May 26, 1957.

Sec. 7. Repealed. Acts 1961, 57th Leg., p. 466, ch. 233, § 7.

Emergency. Effective May 26, 1957.

Sec. 9. Governing Body of the District; Qualifications of Members of the Board; Vacancies; Term of Office. The government and control of the District shall be vested in a Board of Directors consisting of twelve (12) members, six (6) of whom shall be elected from Bexar County, two (2) of whom shall be elected from Wilson County, two (2) of whom shall be elected from Karnes County, and two (2) of whom shall be elected from Goliad County. The six (6) Directors elected to serve as the first elected Directors from Bexar County shall at the first meeting of the Board following their election determine by lot which two (2) Directors shall serve until January 1, 1963, which two (2) Directors shall serve until January 1, 1965, and which two (2) Directors shall serve until January 1, 1967. The two (2) Directors elected to serve as the first elected Directors from Wilson County shall at the first meeting of the Board following their election determine by lot which Director shall serve until January 1, 1965, and which Director shall serve until January 1, 1967. The two (2) Directors elected to serve as the first elected Directors from Karnes County shall at the first meeting of the Board following their election determine by lot which Director shall serve until January 1, 1965, and which Director shall serve until January 1, 1967. The two (2) Directors elected to serve as the first elected Directors from Goliad County shall at the first meeting of the Board following their election determine by lot which Director

shall serve until January 1, 1965, and which director shall serve until January 1, 1967. The successor of each of the aforementioned first elected directors shall be elected at large from the County of his predecessor to serve for a term of six (6) years. All directors shall hold office until their successors have been elected and have qualified by taking the oath of office. Before entering upon the duties of his office, each member of the Board shall take the Constitutional Oath of Office and the same shall be filed in written form with the Secretary of the Board. Vacancies occurring on the Board from any county shall be filled by appointment by the Governor of the State, with the advice and consent of the Senate, for such unexpired term. Any person over the age of twenty-one (21) years, residing within the District and within the county from which he is elected or appointed and possessing the qualifications of a juror shall be eligible to be elected or appointed and to serve as a director. Immediately after this Act becomes effective the following named persons shall be the Directors of the District and shall govern and control the District until the first elected directors shall have been elected and shall have qualified for office: Frank T. Drought, Martin C. Giesecke, Melrose Holmgreen, H. F. Kramer, Leslie R. Neal, and E. E. Voigt of Bexar County; John Merchant and E. W. Schneider of Wilson County; Thomas B. Baker and Hugh B. Ruckman, Jr., of Karnes County; and John Weber and L. H. VonDohlen of Goliad County. If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume their duties under this Act, the Governor, with the advice and consent of the Senate, shall appoint his successor, who shall likewise serve until the first elected directors shall have been elected and qualified for office. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 9.

Emergency. Effective May 26, 1961.

Sec. 10. Election of Directors. Within ninety (90) days after this Act becomes effective, the Board of Directors of the District, who are named in Section 9 of this Act, shall by ordinance call an election to be held at such polling place or places within the counties of Bexar, Wilson, Karnes and Goliad as it may deem proper for the election of the following Directors: Six (6) directors from Bexar County; two (2) directors from Wilson County; two (2) directors from Karnes County; and two (2) directors from Goliad County. The said Board of Directors shall give notice of said election in each county by causing a notice of said election to be published once each week for three (3) consecutive weeks in a newspaper of general circulation in each county in the District. In addition to such publication, a copy of such notice shall be transmitted by the Manager of the District, by registered or certified mail, to the County Judge of each County within the District, such notice to be mailed not more than three (3) days after the first date of publication. The first election so called shall be held on the first Tuesday following thirty (30) days after the first date of publication of such notice. The ordinance providing for said election and for the notice thereof shall name the officers of the election and direct that said election be held in accordance with the General Laws of the State. All matters relating to such election shall be filed with the Secretary of the said Board, and the results of the election in each county shall be canvassed and certified by the said Board. The ordinance calling the election and all action pertaining to the election shall be entered in the minutes of the District, and certified copies thereof shall be filed upon the Deed Records of each county in the District. After the first election to elect Directors to succeed the said Board, all elections within the District shall be carried out in accordance with rules set forth in the bylaws, and the

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results of all elections shall be canvassed by the Board of Directors of the District at the regular meeting next following each biennial election. All elections after said first election shall be held on a date in the month of November and at the polling places designated by the Board of Directors of the District, and said election may be held coincidentally and in conjunction with the General Elections. The terms of office of Directors elected at each election after the said first election shall commence on the first day of January following their election. In all elections, including the said first election, the following rules shall apply:

(a) Those persons seeking to have their names placed on the official ballot shall make application to the Secretary of the Board in accordance with rules prescribed by the Board either in the ordinance calling the election or in the bylaws.

(b) The Secretary of the Board shall make up the official ballot for each county from the names of candidates who have filed applications, and the placing of the names of the candidates on the ballots shall be determined by lot. The drawing of lots for the placing of the names of the candidates on the ballots shall be by the Secretary of the Board, and all candidates, or their designated representatives, may be present at such drawing.

(c) The candidates receiving the greatest number of votes, that is a plurality, shall be declared elected. Should there be a tie in the votes received, the winner of the election shall be determined by lot in a manner approved by the majority of the Board. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 11.

Emergency. Effective May 26, 1961.

Former section 10 of Acts 1937, 45th Leg., ch. 276 was repealed by Acts 1961, 5th Leg. p. 466, ch. 233, § 10.

Sec. 11. Compensation and Expenses of Directors. The Directors of the District shall be entitled to Twenty Dollars (\$20) per day for each day of official service, whether sitting as a Board or serving on a committee of the Board, and in addition thereto shall be entitled to reimbursement for all expenses necessarily incurred by reason of such service. A meeting shall be deemed a day of service, provided that no charge shall be made for more than one meeting held on any one day, and no Director shall be paid per diem in excess of one hundred and fifty (150) days in any one fiscal year, exclusive of reimbursement for expenses, as compensation for service rendered as a Director and as a member of a committee. All fees for services as a Director or as a member of a committee and all necessary expenses in connection with such service shall be paid out of funds raised in the county from which the Director is elected or appointed. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 12.

Emergency. Effective May 26, 1961.

Sec. 12. Removal of Directors and Officers. Any Director or Officer shall be subject to removal or suspension from office by the affirmative vote of eight (8) Directors for incompetency, official misconduct, official gross negligence, habitual drunkenness or for nonattendance at six (6) consecutive regular meetings of the Board; provided, that no Director or Officer shall be removed or suspended from office until charges in writing are filed against him and he is given the opportunity of a fair hearing before the Board of Directors. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 13.

Emergency. Effective May 26, 1961.

Sec. 13. Organization and Meetings of the Board; Officers; Quorum. At the first meeting of the Board after this Act becomes effective and at the first meeting of the Board after the first elected Directors have qualified for and have taken office and at the first meeting of the Board held in the month of January of each odd-numbered year commencing with the year 1963, there shall be appointed by a majority vote of the Board of Directors from its membership a Chairman, a Vice-Chairman, a Secretary and a Treasurer, and, if deemed proper, an Assistant Secretary and an Assistant Treasurer, who need not be members of the Board of Directors and who may be granted limited powers in the bylaws. The officers so appointed shall serve for a term of two (2) years and until their successors have been appointed, except that the Assistant Secretary and the Assistant Treasurer, if such officers are appointed, shall hold office at the pleasure of the Board. A quorum at all meetings of the Board of Directors shall consist of not less than seven (7) members. A quorum at all meetings of the Executive Committee shall consist of not less than three (3) members. Regular and special meetings of the Board of Directors shall be held as provided by the bylaws and notice of such meetings shall be given as required by the bylaws. The Board shall meet at least once each year with the State Board of Water Engineers. All meetings of the Board shall be open to the public. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 14. Emergency. Effective May 26, 1961.

Sec. 14. Powers of the Board and Executive Committee; Bonds Required. The Board of Directors shall be responsible for the management and control of all affairs of the District. In connection therewith, the Board of Directors shall have the power:

(a) To exercise all the powers, rights, privileges and functions conferred by law upon the District;

(b) To adopt all such bylaws as are not inconsistent with the law. The bylaws may provide for the designation by the Board of an Executive Committee of five (5) members upon whom the District's Manager may call for policy decisions and advice concerning matters which arise between meetings of the Board and which may authorize, on behalf of the District, the execution of any contract involving the expenditure of an amount no greater than Ten Thousand Dollars (\$10,000);

(c) To appoint and fix the salary of a Manager, who shall be the chief executive officer of the District. The Manager shall employ and supervise, subject to policies promulgated by the Board, all employees, agents, accountants, attorneys, engineers and others rendering professional services necessary and required to accomplish the purposes of this Act. The Manager may execute, on behalf of the District, any contract involving the expenditure of an amount no greater than One Thousand Dollars (\$1,000).

Except as specifically provided elsewhere in this Act, all the powers, rights, privileges and functions of the District may be exercised by a majority of those Directors present at any meeting of the Board (or of the Executive Committee if the sum involved is no greater than Ten Thousand Dollars (\$10,000)) held in compliance with the provisions of the bylaws at which meeting there must be present a majority of the Board (or of the Executive Committee), constituting a quorum.

Said Board of Directors shall have all such additional powers as may be conferred on this District by the other provisions of this Act and said Chapter 25, and of said Article 16, Section 59, of the Constitution of the State of Texas; provided, however, that members of the Board shall be

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ineligible to engage in any transaction for gain or profit with the District.

The Directors and all officers of the District who are not Directors shall, within fifteen (15) days after their election or appointment, file a good and sufficient bond with the Secretary of the Board; the official bond of each Director and Officer shall be in the sum of Five Thousand Dollars (\$5,000), shall be payable to the District, shall be conditioned upon the faithful performance of their duties as such Directors or Officers, and shall be subject to approval by the Secretary of the Board. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 15.

Emergency. Effective May 26, 1961.

Sec. 14-a. Audit. A complete system of accounts shall be kept by the District in accordance with generally accepted principles of accounting. The State Auditor shall annually audit the books and accounts of the District in such manner as to enable him to report to the Legislature as to the manner and purpose of the expenditure of all funds of the District. Such audit shall cover the fiscal year from July the first to June the thirtieth, and a report thereof shall be made before the first day of January each year, a copy of which shall be filed with the Governor of Texas, the Lieutenant Governor of Texas, the Attorney General of Texas, the Speaker of the House of Representatives, the County Judge of each county included in the District and with each State Senator and Member of the House of Representatives of each county within the District. The State Auditor, after completing such report, shall prepare a detailed statement showing the actual cost of such audit and shall certify such statement to the Governor of the State of Texas for his approval; and such statement, when approved by the Governor, shall be delivered to the Manager of the District, and the District shall forthwith deposit such sum of money with the State Treasurer, which sum shall be placed in the General Fund of the State of Texas. Nothing herein shall prohibit the District from employing the professional services of an independent Certified Public Accountant or firm of Certified Public Accountants for any purpose. All books, accounts, contracts, records, papers and archives of the District shall be kept and maintained at the District's general office and shall be open to public inspection at all reasonable times. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 16.

Emergency. Effective May 26, 1961.

Sec. 15-a. Taxation. Subject to the limitation as to the maximum rate of tax as prescribed in this Section, the District may levy and collect throughout the territory of the District such ad valorem taxes as are voted at an election or elections called by the Board for that purpose and conducted throughout the territory of the District. The maximum rate of tax which can be levied and collected for any year shall be two cents (2¢) on the One Hundred Dollars (\$100) of taxable property based on its assessed valuation, in accordance with the following conditions and procedures:

(a) The Board of Directors of the District may, by ordinance, call an election to submit to the voters for approval such taxation; provided that a public hearing to discuss the proposed tax issue shall be held in each county in the District, said public hearing to be held not less than ten (10) days nor more than twenty-five (25) days prior to the scheduled date of any such election, and said hearings shall be called by the Board of Directors of the District and notice of the time, day, date, place and purpose of said meeting shall be given by publishing said notice in at

least one (1) newspaper of general circulation in each county where the meeting is to be held at least ten (10) days prior to such hearing;

(b) Only qualified electors, owning taxable property within the boundaries of the District and who have duly rendered their property for taxation shall be entitled to vote in any such election. An elector otherwise qualified must vote in the county of his residence and at the polling place designated for the precinct of his residence. The ordinance calling the election shall specify the polling place or places in each of the several counties. The notice of election will be sufficient as to any county within the District if it states that the election is to be held throughout the territory comprising the District and if it specifies the polling place or places in such county. But it shall not be necessary to publish such details except in the county in which they are applicable;

(c) Returns of the election shall be made to the Board, and the Board shall canvass the returns of the election and adopt an ordinance declaring the results thereof. The Board may levy taxes within the maximum rate thus voted if a majority of the votes cast throughout the District are in favor of the levy of the tax and if a majority of the votes cast in any three (3) counties in the District are in favor of the levy of the tax;

(d) The rate of tax shall be uniform throughout the territory comprising the District, and shall be certified by the Chairman and the Secretary of the Board of Directors of the District to the Tax Assessor and the Tax Collector of each included county;

(e) After an election has resulted favorably to the levy of a tax, the Board of Directors may borrow money payable therefrom and may evidence such loan by a negotiable note given in the name of the District;

(f) Any taxes thus collected shall be used for the purpose of general administration, preparation of the Master Plan provided for in Section 4-a, and for other planning and services with respect to any of the purposes, rights, privileges and functions of the District; provided, however, that none of the taxes thus collected shall be used to pay for or finance the construction of any dams, reservoirs, levees, channels, pipelines or other major physical works of the District, or pay for the cost of any right-of-way acquisitions, or the expenses of right-of-way acquisition, or damages awarded by any Court under Article 1, Section 17, of the Constitution of the State of Texas. It is the intent of this Act that any taxes thus collected will enable the District to develop a Master Plan for the maximum development of the soil and water resources of the District, is being hereby found and determined that the benefits to be realized from such maximum development can be obtained only through area-wide participation and planning. It is the intent of this Act that the construction of any dams, reservoirs, levees, channels, pipelines or other major physical works of the District shall be paid for or financed by revenue bonds of the District to be redeemed either by the sale of services or by taxes to be levied by a county or municipality and paid over to the District as an independent contractor of said county or municipality. It is likewise the intent of this Act that any taxes thus collected may be used to pay for the operation, repair and/or maintenance of any flood control, soil conservation, watershed protection and/or erosion structures or works of improvement constructed in cooperation with the Federal Government; provided, however, that any such operation, repair and/or maintenance costs shall be paid for out of taxes thus collected in the county in which the particular structure or work of improvement is situated. It is further the intent of this Act that the taxes authorized by

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this Section 15-a thus collected shall not be pledged to the redemption of any bonds of the District. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 17.

Emergency. Effective May 26, 1961.

Sec. 15-b. Rendition, Assessment, Levying and Collection of Taxes. The rendition and assessment of property for taxation and the collection of taxes for the benefit of the District shall be in accordance with the law applicable to counties, insofar as such law is applicable. Renditions shall be to the County Tax Assessor of the county in which the property is taxable for State and County purposes. It shall be the duty of the Assessor and Collector in each county to cause to be placed on the county tax rolls such additional column or columns as are needed to show the tax levied by the District and the amount thereof, based on the value of such property as approved finally for State and County purposes by the Board of Equalization of such County. The fee for assessing and collecting taxes shall be two per cent (2%) of the taxes collected, such fee to be paid over and disbursed in each county as are other fees of office. All of the laws for the enforcement of State and County taxes shall be available to the District. The District has the right to cause the officers of each county to enforce the taxes due to the District in that county, as provided in the law for the enforcement of State and County taxes. Taxes assessed and levied for the benefit of the District shall be payable and shall become delinquent at the same time, in the same manner and subject to the same discount for advance payment as taxes levied by and for the benefit of the county in which the property is taxable. The fee for collecting delinquent taxes through prosecution of suit shall be fifteen per cent (15%) of the taxes collected by such suit, such fee to be paid over and disbursed in each county as are other fees of office. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 18.

Emergency. Effective May 26, 1961.

Sec. 16. Issuance of Bonds: For the purpose of constructing improvements related to the exercise of any power or powers conferred on it by law, the District shall have the power and is hereby authorized to issue negotiable bonds, either as a single issue or in separate issues, from time to time, to be secured by a pledge of revenues, income and funds of the District without reference to their source and having such priority of liens thereon as may be prescribed in the proceedings authorizing the issuance of such bonds; provided, however, that no ad valorem taxes collected in accordance with the provisions of Sections 15-a and 15-b shall be pledged to any issue or issues of bonds. The District shall have the power to issue the bonds provided for in this Section by action of its Board of Directors and without the necessity of an election. Said bonds may either be (1) sold for cash, at public 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 per cent (6%) 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 deem necessary or convenient for any such corporate purpose, or (3) may be issued in exchange for principal amounts or other obligations of the District, matured or unmatured. The proceeds of sale of such bonds may be deposited in such banks or trust company or trust companies, and may 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 eight (8)

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 per cent (6%) 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 denomination, 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 and five per cent (105%) 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, any part or all of the revenue and income of every kind and character from any source whatsoever thereafter received by the District; (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, charges, and assessments sufficient to produce net revenues adequate to pay the items specified above in subdivisions (a), (b) and (c) of this Section 16, 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 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 of 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



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(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 per cent (25%) 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 per cent (25%) in aggregate principal amount of the bonds authorized by such resolutions at the time outstanding, shall, in his or its own name, but for the equal proportionate benefit of the holders of all 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 per cent (25%) 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 apply the item set forth in subparagraphs (a), (b) and (c) of Section 16 hereof and 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. Subject to the provisions of the Constitution of the State of Texas, the Courts of the County of Bexar 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 hereinabove 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. In lieu of the approval by the Attorney General, the District may institute proceedings as authorized by Chapter 316, Acts of the Regular Session of the Fifty-sixth Legislature, 1959. 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.

All bonds approved by the Attorney General as aforesaid, and registered by the Comptroller as aforesaid, and issued in accordance with the proceedings as 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.

Nothing herein shall prevent the District from making a private sale of its bonds to the Texas Water Development Board under such terms and conditions as District's Board of Directors shall in their discretion deem advisable, and such private sale is specifically authorized by this Act. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 19.

Emergency. Effective May 26, 1961.

Sec. 16-a. Repealed. Acts 1961, 57th Leg., p. 466, ch. 233, § 20.

Emergency. Effective May 26, 1961.

Sec. 18. Property of the District.

(a) Prohibition Against Encumbering Property. 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 therein, or to acquire any such property or interest subject to a mortgage or conditional sale; provided, however, that this Subsection shall not be construed as preventing the pledging of any and all revenues and income of the District of every kind and character and from any source whatever, except ad valorem taxes collected by the District in accordance with Sections 15-a and 15-b of this Act.

(b) Disposition of Property. Nothing in this Act shall be construed as authorizing the District, or any receiver of its properties, or any court, to sell, lease or otherwise dispose of any of its property of any kind, real, personal or mixed, or any interest therein, unless such sale, lease or other disposition has been generally authorized by this Act; provided, however, that the District may sell for cash any such property or interest therein of an aggregate value not exceeding the sum of Two Hundred Thousand Dollars (\$200,000) in any one fiscal year, under the following terms and conditions:

(1) The Board, by the affirmative vote of eight (8) members thereof, shall have determined that said property or interest therein is not convenient to the business of the District and, by the same vote, shall have agreed as to the appraised value of said property or interest therein;

(2) The Board shall cause a notice of such proposed sale to be published once each week for three (3) consecutive weeks in a newspaper

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

of general circulation in the county or counties in which said property or interest therein is situated if the appraised value of said property or interest therein is in excess of One Thousand Dollars (\$1,000) and if the said property or interest therein is not partial or total consideration in a transaction for the exchange of properties;

(3) If the Board shall have determined that said property or interest therein is not convenient to the business of the District and that the appraised value of said property or interest is not in excess of One Thousand Dollars (\$1,000), the Manager of the District shall proceed to sell said property or interest therein upon the terms he deems appropriate and shall execute, on behalf of the District, such instruments as are necessary to effectuate the sale;

(4) If the Board shall have determined that said property or interest therein is not convenient to the business of the District, that the appraised value of said property or interest therein is in excess of One Thousand Dollars (\$1,000), and that said property or interest therein is partial or total consideration in a transaction for the exchange of properties, the Board shall proceed to sell said property without publishing a notice of such sale upon the terms it deems appropriate and shall execute, on behalf of the District, such instruments as are necessary to effectuate the exchange of properties;

(5) If the Board shall have determined that said property or interest therein is not convenient to the business of the District and that the appraised value of said property or interest therein is in excess of One Thousand Dollars (\$1,000), and after notice has been published as hereinbefore provided, the Board shall consider at the regular meeting next following the last date of advertisement all offers of purchase, shall determine by the affirmative vote of eight (8) members thereof the terms of such sale, and shall execute, on behalf of the District, such instruments as are necessary to effectuate the sale.

(c) Property Exempt from Forced Sale. All property of the District shall be at all times exempt from forced sale, and nothing in this Act shall authorize the sale of any of the property of the District under any judgment rendered in any suit, and such sales are hereby prohibited and forbidden. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 21.

Emergency. Effective May 26, 1961.

Sec. 21-a. Contract with Bexar County. Recognizing the fact that the District has heretofore entered into a contract with the Commissioners Court of Bexar County, Texas, for the purpose of financing the construction of certain flood control and soil conservation works of improvement in Bexar County, the District is hereby prohibited from spending any income or revenue derived from said contract, and all amendments thereto or reformations thereof, for any purpose other than those which are specifically provided for therein; provided, however, that a reasonable amount of said income or revenue may be allocated by the Board for the payment of the District's overhead, operational costs and the fees of the Directors who reside in Bexar County. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 22.

Emergency. Effective May 26, 1961.

Sec. 22. Liberal Construction; Conflicts. This Act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

It is especially provided, however, that in the event any authority or power granted in this Act overlaps or conflicts with any authority or

power heretofore vested in the Guadalupe-Blanco River Authority as created by H. B. No. 138, Chapter 410, Acts of the Forty-fourth Legislature at its First Called Session, that the power and authority granted by said Act creating said Guadalupe-Blanco River Authority shall supersede and control over any power or authority granted by this Act.

It is further especially provided that no provision of this Act shall have the effect of divesting any person, firm or corporation of any vested riparian rights heretofore vested, or any vested rights derived under existing permits for the appropriation and use of public waters heretofore issued by the State Board of Water Engineers, or any vested rights derived under any certified filings heretofore filed with said Board.

It is further especially provided that nothing in this Act shall impair or supersede the authority and supervision granted to the State Board of Water Engineers under the General Laws of the State of Texas or under the rules formulated by said State Board in accordance with said General Laws, any provision of this Act to the contrary notwithstanding. As amended Acts 1961, 57th Leg., p. 466, ch. 233, § 23.

Emergency. Effective May 26, 1961.

**Sec. 25. Severability Clause.** The provisions of this Act are severable. If any section, subsection, provision or part whatsoever of this Act should be held to be void as in violation of the Constitution, it shall not affect the validity of the remaining portions thereof, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions hereof, regardless of the invalidity of any part. Added Acts 1961, 57th Leg., p. 466, ch. 233, § 24.

Emergency. Effective May 26, 1961.

Sections 25 to 27 of the amendatory act of 1961 provided:

"Sec. 25. The validity of the collection or receiving of taxes, revenue or other income of, by and for the District, of any bonds or other securities of the District or the issuance thereof, or of any elections conducted heretofore authorizing taxation or the issuance of bonds or other securities of the District shall not be affected or impaired by the provisions of this Act.

"Sec. 26. If any provision of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

"Sec. 27. Wherever there is any conflict between this Act and any other laws or parts of laws, or any provisions of said Chapter 276, Acts of the Forty-fifth Legislature, 1937, as subsequently amended, the provisions of this Act shall prevail."

**Art. 8280—137. Colorado River Municipal Water District**

**Sec. 28.** The Colorado River Municipal Water District shall have the power and authority under this Act to do the following:

(a) To provide for the study, correction, prevention and control of both artificial and natural pollution of the Colorado River and its tributaries, upstream from the north boundary line of Coke County, Texas, and to adopt and promulgate all reasonable regulations with regard to such pollution, both artificial and natural, so as to secure, maintain and preserve the purity, usefulness and sanitary condition of the water in, and to flow into, the Colorado River and its tributaries.

(b) To eliminate oil field brine pollution of the Colorado River and its tributaries, upstream from the north boundary line of Coke County, Texas, by capping and plugging abandoned oil wells, covering salt water pits with earth, constructing channel dams to collect polluted low flows of the Colorado River and its tributaries, development of salt water disposal wells, and by other practical means of eliminating oil field brine pollution of the Colorado River and its tributaries.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) To develop, drill for or otherwise acquire sources of underground and surface salt water, and to sell salt well water, salt water collected by channel dams, fresh water from the District's reservoirs and wells, and commingled salt water and fresh water, for mining; oil field flooding and repressuring, industrial, manufacturing or other purposes. Added Acts 1961, 57th Leg., 1st C.S., p. 17, ch. 4, § 1.

Emergency. Effective Aug. 4, 1961.

**Art. 8280—147a. Board of directors of Northeast Texas Municipal Water District; bonds; validation**

Section 1. Edmund Aycock, W. M. Watson, Charles R. Davis, M. K. Knight, L. W. Bramlett, J. M. Tilson, and C. H. Jackson, shall constitute the Board of Directors of Northeast Texas Municipal Water District created by Chapter 78, Acts of the 53rd Legislature<sup>1</sup> (hereinafter called "District") until their successors are selected and qualified as now or hereafter provided by law. All acts heretofore performed by the persons above named as Directors of said District and by the persons who served before them as such Directors are hereby validated.

Sec. 2. The election heretofore held in said District authorizing the issuance of bonds of the District, the levy of an ad valorem tax and the pledge of revenues to pay and secure payment of said bonds; the water supply contracts heretofore entered into between said District and the cities contained in said District, and the contracts heretofore executed between said District and the United States Government, the resolution heretofore adopted by the Directors authorizing the issuance of said bonds, the levy of the ad valorem tax and pledge of revenues to pay and secure payment of said bonds, and all procedures in assessing and equalizing valuations of taxable property in said District, are hereby validated.

Sec. 3. The Directors above-named and their successors are fully authorized to proceed with the exercise of all other powers conferred by the law creating said District and by the laws amendatory thereof.

Sec. 4. This Act shall not validate any Act the validity of which is attacked in litigation pending at the time this Act becomes effective. Acts 1961, 57th Leg., 1st C.S., p. 39, ch. 16.

<sup>1</sup> Article 8280—147.

Emergency. Effective Aug. 11, 1961.

**Art. 8280—154. Canadian River Municipal Water Authority**

**Sec. 5.**

(a) The Board of Directors shall perform official actions by resolution and a majority of their number shall constitute a quorum for the transaction of any and all business of the District. A majority vote of the quorum present shall be sufficient in all official actions including final passage and enactment of all resolutions, except as herein elsewhere otherwise specifically provided. As amended Acts 1961, 57th Leg., p. 121, ch. 67, § 1.

Emergency. Effective April 10, 1961.

**Sec. 13.**

(o) To fix and collect charges and rates for water services furnished by it and to impose penalties for failure to pay such charges and rates when due, provided that such charges, rates and penalties shall be fixed only by unanimous vote of the members of the Board of Directors constituting a quorum and who are present at a regular meeting. As amended Acts 1957, 55th Leg., p. 427, ch. 204, § 1; Acts 1961, 57th Leg., p. 121, ch. 67, § 2.

Emergency. Effective April 10, 1961.

(p) To cooperate and to enter into contracts with cities, persons, firms, corporations and public agencies for the purpose of supplying and selling them surface, storm and flood water for municipal, domestic, industrial and other useful purposes permitted by law, provided that cities and areas constituting the District shall be accorded priority in the allocation of the District's available surface, storm and flood water, and the Board of Directors shall prescribe rules to effectuate this provision. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until the District's bonds specified therein and refunding bonds issued in lieu of such bonds are fully paid. No contract for the sale of water or other services by the District to any member or other city shall be entered into until approved by a majority vote at an election held in such city for the purpose, pursuant to a call therefor by its governing body in accordance with the provisions of Article 1109(e), Revised Civil Statutes of Texas, 1925, as amended. Should the District's Board of Directors in regular meeting determine upon a plan of financing involving the issuance of bonds or other obligations to be supported wholly or partially by revenues to be derived from contracts for the sale of water or other services to its member cities, or any of them, it shall promptly direct a certified copy of its resolution to such effect together with a copy of the proposed contract to each member city in which such election is proposed to be held. In the aforesaid resolution, the Board may designate a limit of time (not less than sixty (60) days from the time of notice to the city) in which the member city's governing body shall call such contract election. If the governing body of any member city so notified shall fail or refuse to call such election within the specified time, or if the election is held but results adversely to the adoption of the proposed contract, such city shall then cease to be a part of the District and no longer shall be entitled to representation on the District's Board of Directors. After having so contracted with the District for a water supply, no member city shall be eliminated by virtue of its failure to call or carry a subsequent contract election under the procedures aforementioned, but upon such subsequent failure the District shall not be obligated to furnish such city the services or facilities to be supplied or constructed with the proceeds of the District's bond or other obligations which are supported in any part by the money to be due the District under such contracts. Any member city eliminated from the District under the provisions of this Section may again become a part thereof pursuant to the provisions of Section 6 of this Act. In the event the District shall have contracted with the United States Government or any of its agencies for a source of water supply or for the furnishing of any facilities necessary or useful to the District in carrying out its purposes, any such contract entered into under authority hereof may provide that it shall continue until the District has fully discharged all obligations incurred by it under the terms of its contract with the United States Government or its agencies. The District is also authorized to purchase surface, storm and flood water supply from any person, firm, corporation or public agency, or from the United States Government or any of its agencies. As amended Acts 1955, 54th Leg., p. 587, ch. 196, § 2; Acts 1961, 57th Leg., p. 121, ch. 67, § 3.

Emergency. Effective April 10, 1961.

Sec. 15.

(l) No bonds, whether supported by taxes, revenues or a combination thereof (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters who reside in the District, who own taxable property therein and who have duly rendered the same for

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

taxation, shall be qualified to vote, and unless a majority of the votes cast at said District-wide election is in favor of the issuance of the bonds. No city or area shall be eliminated from the District perforce any of the provisions of this Act if the District containing such City or area shall have previously authorized and issued bonds pursuant to the provisions of this Section, and in such event the District shall thereafter remain as constituted at the time bonds were first authorized and issued hereunder.

Bond elections may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint the necessary assistant judges and clerks for holding such elections. Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper or newspapers of general circulation in each city contained in the District once a week for two (2) consecutive weeks. The first publication shall be at least twenty-one (21) days prior to the election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. The General Laws relating to elections shall be applicable to elections held under this Section of this Act, except as otherwise provided in this Act. As amended Acts 1961, 57th Leg., p. 121, ch. 67, § 4.

Emergency. Effective April 10, 1961.

Validating Act—1961. Acts 1961, 57th Leg., p. 121, ch. 67, §§ 5, 7, read as follows:

"Sec. 5. The Canadian River Municipal Water Authority created and existing by virtue of Chapter 243, Acts of the Fifty-third Legislature, Regular Session, 1953, as amended by Chapter 196, Acts of the Fifty-fourth Legislature, Regular Session, 1955, and Chapter 204, Acts of the Fifty-fifth Legislature, Regular Session, 1957, the territory and area of which is now comprised of all the territory and area located within the present corporate limits of the Cities of (a) Amarillo, Potter and Randall Counties; (b) Borger, Hutchinson County; (c) Lamesa, Dawson County; (d) Levelland, Hockley County; (e) Lubbock, Lubbock County; (f) O'Donnell, Lynn and Dawson Counties; (g) Pampa, Gray County; (h) Plainview, Hale County; (i) Slaton, Lubbock County; (j) Brownfield, Terry County; and (k) Tahoka, Lynn County, in the State of Texas, is hereby in all respects ratified, confirmed and validated and said Authority, as so constituted, and all proceedings and actions taken in connection with its present creation and organization is and are declared to be in all things valid. All proceedings and actions heretofore had and taken in the establishment and organization of the Authority and its Board of Directors as from time to time constituted; all elections heretofore held in the Authority under resolutions or orders of its Board

of Directors; all acts and proceedings of said Board of Directors in the authorization and execution of the "Contract between United States Department of the Interior, Bureau of Reclamation, and the Canadian River Municipal Water Authority, Texas," dated November 28, 1960, for the construction of the Canadian River Project and for payment by the Authority of the reimbursable cost of the construction, operation and maintenance of said project, and said contract and the terms and provisions thereof; all acts and proceedings of said Board of Directors in the authorization and establishment of rates for water services to be furnished by the District to its constituent or member cities; all acts and proceedings of said Board of Directors in the authorization and execution of water supply contracts between the Authority and its constituent or member cities for support of the Authority's contract with the United States, as aforementioned, and said water supply contracts and the terms and provisions thereof; each and all are hereby ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates thereof."

"Sec. 7. This Act shall have no application to any litigation pending upon the effective date hereof in which the validity of the matters herein validated may be involved, if such litigation is ultimately determined against the legality thereof."

#### Art. 8280—160. Green Belt Municipal and Industrial Water Authority

Sec. 7. For the purpose of carrying out any power or authority conferred by this Act, the Authority shall have the right to acquire land and

easements within and without the Authority (including land and easements above the probable high water line around any reservoir created or to be created by any dam constructed or to be constructed by the Authority) by condemnation in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended, relating to eminent domain; provided, however, that the Authority shall not have the right to condemn any property lying outside of Donley, Collingsworth, Childress, Hardeman, Cottle, and Hall Counties, except for the purpose of constructing necessary transportation facilities to a purchaser of water from the Authority. The Green Belt Municipal and Industrial Water Authority is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. As amended Acts 1961, 57th Leg., p. 327, ch. 174, § 1. Emergency. Effective May 17, 1961.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art.		Art.	
8280—198a.	White River Municipal Water District bonds [New].	8280—255.	Brown County Water Control and Improvement District—Holiday Hills [New].
8280—207a.	Tarrant County Water Control and Improvement District No. 1; retirement, disability and death compensation fund [New].	8280—256.	Escondido Watershed District [New].
8280—207b.	Tarrant County Water Control and Improvement District No. 1; Sewage and Industrial Waste and Effluent, Facilities for Disposal [New].	8280—257.	Upper Leon River Municipal Water District [New].
8280—245.	Bowie County Water Supply District [New].	8280—258.	Palo Pinto County Municipal Water District No. 1 [New].
8280—246.	El Lago Municipal Utility District [New].	8280—259.	Lomax Municipal District [New].
8280—247.	Glenwood Bayou Municipal Utility District [New].	8280—260.	Castleman Creek Watershed Association [New].
8280—248.	Logan Slough Creek Improvement District [New].	8280—261.	Angleton Municipal Utility District [New].
8280—249.	Brookshire-Katy Drainage District [New].	8280—262.	Kerr County (Center Point) Water Control and Improvement District [New].
8280—250.	El Paso County Water Control and Improvement District—Westway [New].	8280—263.	Hull Fresh Water Supply District [New].
8280—251.	Rotan Municipal Water Authority [New].	8280—264.	Zapata County Water Control and Improvement District—San Ygnacio [New].
8280—252.	Farmers Creek Watershed Authority [New].	8280—265.	Kimble County River Authority [New].
8280—253.	Repealed [New].	8280—266.	El Paso County Water Authority [New].
8280—254.	Rio Grande Palms Water District [New].	8280—267.	Chantilly Oaks Municipal Utility District [New].
		8280—268.	Bayshore Municipal Utility District [New].
		8280—269.	Liberty County Drainage District No. 5 [New].

Art. 8280—162. West Central Texas Municipal Water District

Sec. 7. The District is empowered to obtain through appropriate hearings an appropriation permit or permits from the Board of Water Engineers, as provided in Chapter 1, of Title 128, Revised Civil Statutes of 1925, as amended. As amended Acts 1961, 57th Leg., p. 48, c. 32, § 1. Emergency. Effective March 25, 1961.



## Sec. 12.

(g) From the proceeds from the sale of the bonds, the District may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses, necessarily incurred in accomplishing the purpose for which this District is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds may be temporarily invested in direct obligations of, or obligations, the principal of and the interest on which are unconditionally guaranteed by: the United States Government, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks or Banks for Cooperatives. As amended. Acts 1961, 57th Leg., p. 385, ch. 194, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Sec. 22. (a) Taxes throughout West Central Texas Municipal Water District shall be equitably distributed as required by Article XVI, Section 59 of the Constitution, and to that end, the Board of Directors shall appoint an assessor and collector of taxes and shall annually appoint a board of equalization. Members of the board of equalization shall be persons whom the Board of Directors find to be specially qualified to pass upon valuation of taxable property. The board of equalization shall consist of four (4) members and not more than one (1) member shall be a resident in any one (1) city in the District, unless the Board of Directors finds that it cannot appoint from one (1) or more of the cities a qualified member who will serve on the board of equalization. A majority of the board of equalization shall constitute a quorum. General Laws applicable to water control and improvement districts with reference to tax assessors and collectors and boards of equalization shall be applicable to this District except as herein otherwise provided.

(b) The Board of Directors may, in its discretion, enter into a contract with a city within the District under which such city will assess the property therein contained for taxes, equalize the assessed valuations thereof and prepare the tax rolls covering such property, provided that such city assesses its valuations on the same ratio of actual value as the District. If such a contract is made, the Board of Directors shall, nevertheless, appoint the Board of Equalization as provided in Subsection (a) of this Section 22, and it shall be the duty of the Board of Equalization so appointed to examine the rolls prepared under such contract and to make such further investigation and provide for such hearings, and make such revisions in assessed valuations as it may deem necessary so that the taxable property in all cities contained in the District is valued uniformly.

(c) The Board of Directors may also contract with any of the cities in the District for the collection of District taxes levied upon taxable property in and adjacent to such city and within the District, or may contract with any county for collection of taxes in that part of the District within the county.

(d) All taxes levied by the Board of Directors of West Central Texas Municipal Water District shall become due and payable on the 1st day of October of the year in which such taxes are levied, and shall be paid on or before the 31st day of January thereafter.

(e) All taxes which have not been paid by the last day of January shall become delinquent on the 1st day of February of each year, and the same shall constitute a lien on the property as provided by Article XVI, Section 59 of the Constitution although the owner be unknown or same be listed in the name of a person not the actual owner thereof, or though the ownership be changed.

(f) All taxes becoming delinquent shall have added thereto a penalty of six percent (6%) of the amount thereof, which charge shall accrue each year that said taxes are delinquent.

(g) It is provided, however, that the Board of Directors may adopt a split tax payment plan to conform to such plan which is in effect in any city with which the District makes a tax equalization and collection contract, and it shall make such plan effective in any other city contained in the District upon request of the governing body of the city.

(h) General Laws applicable to water control and improvement districts with reference to levy, assessment and collection of ad valorem taxes and the enforced collection of delinquent taxes shall be applicable to this District.

(i) The prior assessment of property in the District for taxes, the appointment of and the procedures of the board of equalization in equalizing valuations and approving the tax rolls are hereby validated, and the provisions of the resolution of the Board of Directors fixing due date, delinquent date, interest and penalties on delinquent taxes are hereby validated. Added Acts 1961, 57th Leg., p. 385, ch. 194, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 8280—173. Northeast Tarrant County Water Authority**

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a Conservation and Reclamation District to be known as "Northeast Tarrant County Water Authority." As amended Acts 1961, 57th Leg., p. 231, ch. 119, § 1.

Sec. 2. The Authority shall contain all of the territory contained in the Cities of Haltom City, and Hurst, in Tarrant County as such cities existed on March 1, 1961. It is hereby found that all of the land thus included in said Authority will be benefited by the improvements to be acquired and constructed by said Authority. As amended Acts 1961, 57th Leg., p. 231, ch. 119, § 2.

Sec. 6. The Authority is hereby empowered to impound storm and flood waters and the unappropriated flow waters at such place or places and in such amount as may be approved by the Board of Water Engineers, by the construction of a dam or dams within or without the District, by complying with Chapter 1, Title 128, Revised Civil Statutes, as amended, and to develop or otherwise acquire underground sources of water. The Authority is also empowered to construct or otherwise acquire and operate, within or without the Authority, all works, plants, pipelines and other facilities necessary for the purpose of processing such water and transporting it to cities and others, and distributing it for municipal, domestic and industrial purposes; and to purchase water, water supply, or water storage space from the United States Government or any agency thereof, or from any other source. The Authority is authorized to sell any real or personal property not needed for the exercise of its powers hereunder. The authority granted to construct

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

dams and reservoirs shall be limited to the Watershed of Denton Creek which is a tributary of the Elm Fork of the Trinity River. Provided however, no dam or other works for the impounding of surface water shall be constructed until the plans thereof are approved by the Board of Water Engineers of the State of Texas. As amended Acts 1961, 57th Leg., p. 231, ch. 119, § 3.

Sec. 8. Any construction contract or contract for the purchase of material, equipment or supplies requiring an expenditure of more than Two Thousand, Five Hundred Dollars (\$2,500.00) shall be made to the lowest responsible bidder after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place, when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in the Authority or City of Fort Worth and designated by the Board of Directors. As amended Acts 1961, 57th Leg., p. 231, ch. 119, § 4.

Emergency. Effective May 15, 1961.

*Acts 1961, 57th Leg., p. 231, ch. 119, amending sections 1, 2, 6 and 8 of this article, in section 5 provided: "Notwithstanding any other provisions of this Act, the exercise of the power of eminent domain by the authority shall be limited to land situated in Tarrant County."*

North Tarrant County Municipal Water District, see art. 8280—141.

Tarrant County Water Control and Improvement District No. 1, see art. 8280—207.

#### Art. 8280—177. City of McAllen Water and Sewer Authority

Sec. 2. The Authority shall be in the City of McAllen, in Hidalgo County, Texas; and shall embrace all of the territory which is contained within the limits of the City of McAllen, Hidalgo County, Texas, as same exists on the effective date of this Act, or which shall be annexed to said City of McAllen from time to time so that the boundary and limits of the Authority will coincide with the city limits of the said City of McAllen. As amended Acts 1961, 57th Leg., 1st C.S., p. 181, ch. 49, § 1.

Emergency. Effective Aug. 26, 1961.

Sec. 3(a). All powers of the Authority shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he resides in and owns taxable property in the Authority and is a qualified voter. No member of a governing body of any city or town and no employee of a city or town shall be a Director. Such Director shall subscribe to the constitutional oath of office and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. Provided, however, at the discretion of the Authority, the abovementioned bond shall be waived. A majority shall constitute a quorum. As amended Acts 1961, 57th Leg., 1st C.S., p. 781, ch. 49, § 2.

Emergency. Effective Aug. 26, 1961.

(c). A regular election for the election of Directors shall be held on the first Tuesday after the first Monday in April of each odd-numbered year after the effective date of this Act. There shall be five (5) Directors who shall serve for terms of four (4) years each, except that at the

1963 election two (2) of the five (5) Directors elected shall serve for two-year terms and three (3) of the Directors elected shall serve for four-year terms, to be determined by lot. Such term shall begin immediately after the official canvass of the election returns and the newly elected Directors shall be sworn in and qualified as soon thereafter as is reasonable and practical. Regular elections shall be called by the Board of Directors. The Board shall appoint the presiding judge, who shall appoint an assistant judge and such clerks as are necessary. Notice of the election shall be published in a newspaper published in the City of McAllen one time, at least thirty (30) days prior to the election. The five (5) candidates receiving the highest number of votes in the 1963 election shall be declared elected. In the event of a tie, the candidates who are tied shall determine by lot which one is to be elected and serve. As amended Acts 1961, 57th Leg., 1st C.S., p. 181, ch. 49, § 3.

Parker (Civ.App.1961) 348 S.W.2d 188, ref.

(d). Any candidate for Director desiring to have his name printed on the ballot may do so by filing a written application with the secretary of the Board of Directors of the Authority not less than thirty (30) days prior to the date of the election. As amended Acts 1961, 57th Leg., 1st C.S., p. 181, ch. 49, § 4.

Emergency. Effective Aug. 26, 1961.

#### Art. 8280—187. Fort Bend County Water Supply District

Section 1. Under and pursuant to the provisions of Article 16, Section 59, Constitution of Texas, there is hereby created within the State of Texas, in addition to the districts into which the State has heretofore been divided, a conservation and reclamation district to be known as the "Fort Bend County Water Supply District", lying wholly within Fort Bend County, Texas, hereinafter sometimes referred to as the 'District'. The boundaries thereof shall be as follows:

BEGINNING at the intersection of the West property line of Sugarland Industries' land with the North right-of-way line of State Highway No. 6 in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas;

THENCE South  $50^{\circ} 13'$  East 2358.7 feet with the North right-of-way line of State Highway No. 6 to a point in same;

THENCE South  $66^{\circ} 43'$  East 4210.0 feet with the North right-of-way line of said State Highway No. 6 to a point in same;

THENCE North 800 feet, more or less, to a point in the centerline of a gravel road designated as Blair Road;

THENCE East with the centerline of Blair Road, at 4750 feet pass the Missouri Pacific Railroad, at 9000 feet pass Oyster Creek, in all 12,700 feet to a point in the centerline of Lester Lane;

THENCE North with the centerline of Lester Lane, at 1645 feet pass an irrigation canal, at 2375.3 feet pass the Northeast corner of Riverbend Country Club's 165.0 acre tract, in all 5,383.0 feet to the Southeast corner of Fort Bend Independent School District's 80.0 acre tract in the William Stafford League, Abstract No. 89;

THENCE North  $89^{\circ} 41'$  West with the South line of said 80 acre tract 1291.36 feet to an iron pipe marking its southwest corner;

THENCE North  $00^{\circ} 19'$  East 2698.55 feet with the West line of Said 80 acre tract to its Northwest corner;

THENCE South  $89^{\circ} 41'$  East 1291.36 feet with the North line of said 80 acre tract to its Northeast corner in the centerline of Lester Lane;

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THENCE North with the centerline of Lester Lane, 1218.45 feet to a point in the South Right-of-way line of State Highway No. 59;

THENCE in a Westerly direction with said South right-of-way line of State Highway No. 59, a distance of 5050 feet to the centerline of Stiles Lane produced;

THENCE North with the centerline of Stiles Lane, a distance of 8800 feet, more or less, to the Southeast corner of a tract of land conveyed by Sugarland Industries to Veterans Land Board by deed recorded in Volume 272, Page 417 of the Deed Records of Fort Bend County, Texas;

THENCE South  $78^{\circ} 03'$  West 6,898 feet along the South line of above tract of land to its Southwest corner in the centerline of Eldridge Road;

THENCE South with the centerline of Eldridge Road, 3983.0 feet to the Southwest corner of the G. W. Hudson, Jr. 50.68 acre tract of land and an interior corner of Sugarland Industries' land;

THENCE South  $78^{\circ} 02'$  West 6575.7 feet with the North line of Sugarland Industries' land and the South Line of said G. W. Hudson, Jr. 50.68 acre tract and the Wm. J. Cannon 49.27 acre tract to an iron pipe for corner in the West line of the S. M. Williams League;

THENCE South with the West line of the S. M. Williams League, which is also the common line between the State of Texas Prison System and Sugarland Industries' land, a distance of 1800 feet, more or less, to a point in the center of Oyster Creek;

THENCE South  $61^{\circ} 51'$  West 3582.1 feet with the North line of Sugarland Industries' land to a railroad iron at the most Westerly Northwest corner of Sugarland Industries' land;

THENCE South  $70^{\circ} 20'$  West 653.6 feet to the centerline of Sugarland Railway tracks;

THENCE South  $22^{\circ} 52'$  East 2173.6 feet to a point in the South right-of-way line of U. S. Highway No. 59;

THENCE South  $70^{\circ} 19'$  East 1874.3 feet with the West line of Belknap Realty Company's 377.3 acre townsite tract to a point for interior corner;

THENCE South  $0^{\circ} 33'$  West with the West line of said Belknap Realty Company's 377.3 acre townsite tract, at 351.0 feet past the Southwest corner of said Belknap Realty Company's 377.3 acre townsite tract, in all 2103.7 feet to the place of beginning and containing a total of 6,594.90 acres of land, more or less, 306.02 acres being in the Alexander Hodge League, Abstract No. 32, 2217.40 acres being in the S. M. Williams League, Abstract No. 97, 2825.88 acres being in the Brown and Belknap League, Abstract No. 15, 235.60 acres being in the Elijah Alcorn League, Abstract No. 1, and 1010.00 acres being in the William Stafford League, Abstract No. 89, all in Fort Bend County, Texas. As amended Acts 1961, 57th Leg., p. 538, ch. 253, § 1.

Emergency. Effective May 27, 1961.

## Art. 8280—196. Athens Municipal Water Authority

### Territory comprising authority

Sec. 2. (a) The Authority shall be in Henderson County, Texas, and shall embrace, subject to annexations of territory as hereinafter provided for, all of the territory which was contained within the corporate limits of the City of Athens, Henderson County, Texas, on the 2nd day of May, 1957; No territory annexed to the City of Athens subsequent to the 2nd day of May, 1957, shall hereafter be considered a part of said

Authority solely by virtue of the annexation thereof to the City of Athens. No defect or irregularity in the boundaries of said City of Athens as they existed on the 2nd day of May, 1957, or in any of the proceedings relating to the territory thereof or annexations thereto accomplished prior to said date shall ever affect the validity of the Authority or any of its rights, powers, privileges or functions, it being affirmatively found and determined that all of the territory comprising and recognized as being within the City of Athens on the 2nd day of May, 1957, and all other territory hereafter brought into said Authority pursuant to the provisions hereof relating thereto, shall comprise said Authority and that all of same will be benefited by the improvements and facilities to be constructed, acquired or otherwise furnished under this Act.

(b) Any territory annexed to the City of Athens subsequent to the 2nd day of May, 1957, may become a part of the Authority by resolution of the Authority's Board of Directors officially declaring such annexation and designating the territory either by reference to the City's annexation ordinance, or otherwise, provided that no such annexation shall become final unless the Board of Directors of the Authority shall make an order setting the date of a hearing, notice of which shall be posted in three (3) public places within the territory proposed to be annexed, such posting to be made not less than fifteen (15) days prior to the date of hearing. Such notice of hearing shall contain a statement of the nature and purpose thereof, and the date and time and place of hearing. Upon the date set for hearing, any person whose land is included in or would be affected by the proposed annexation may appear and contest such annexation and may offer testimony to show that said annexation would or would not be a benefit to such land proposed to be included within the district. If it shall appear on hearing by the Board of Directors of the Authority that such annexation as proposed is feasible and practicable and that it would be a benefit to the land proposed to be annexed, the Board of Directors shall so find and enter its order annexing same. If the Board of Directors should find that such proposed annexation is not feasible and practicable or would not be a benefit to the land proposed to be annexed, the Board shall refuse the proposed annexation.

(c) It is further provided, however, that no tax obligation of any nature incurred by the Authority prior to such annexation to the Authority shall be imposed on such annexed area unless the assumption thereof is approved by the written consent given by the owners of the land annexed or unless a majority of the qualified, property taxpaying voters residing in such territory annexed shall have voted for the assumption of such prior tax obligation at an election ordered and held for that purpose, after notice given in like manner as hereinafter set out with regard to elections pertaining to the authorization of bonds of the Authority which are payable wholly or partially from ad valorem taxes, with the exception that the election notice shall be published in a newspaper published in the City of Athens, and that if no newspaper is published in said City it shall be sufficient if notices are posted at three (3) public places in such City at least twenty-eight (28) days prior to the date of the election. Provided further, that the Authority shall not annex any territory under this Section while any ad valorem tax supported bonds theretofore voted remain unissued and unsold. As amended Acts 1961, 57th Leg., p. 286, ch. 157, § 1.

Emergency. Effective May 15, 1961.

Validating Act. Acts 1961, 57th Leg., p. 286, ch. 157, § 2, effective May 15, 1961, read as follows:

"Sec. 2. Athens Municipal Water Authority as comprised of all the territory which was located within the corporate limits of the City of Athens, Henderson County, Texas, on the 2nd day of May,

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1957, and the boundaries thereof as thus delineated are hereby in all things validated and said Authority is hereby declared to be a validly existing and operating conservation and reclamation district pursuant to the provisions of Section 59 of Article 16 of the Texas Constitution. The organization of the Authority's Board of Directors as from time to time constituted and all governmental acts and proceedings heretofore performed and accomplished by said Board and the officers thereof in connection with the Authority are hereby in all things validated as of the respective dates of such acts and proceedings. Without limiting the generality of the foregoing the election held in the Authority on the 8th day of October, 1957, on the proposition of the issuance of

One Million, One Hundred Thousand Dollars (\$1,100,000) tax and revenue supported bonds of the Authority and all acts and proceedings in connection therewith are hereby confirmed and validated. The bonds authorized at said election are hereby validated and when approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and delivered to the purchaser or purchasers thereof, said bonds shall be incontestable. The water supply contract, dated the 5th day of March, 1953, between the Authority and the City of Athens for the support of the Authority's bonds aforementioned is hereby validated with the parties thereto obligated according to the terms and provisions thereof."

### Art. 8280—198. White River Municipal Water District

#### Sec. 5.

(L) Territory heretofore or hereafter annexed to any city contained in the District may be annexed to the District in the following manner:

(1) At any time after final passage of an ordinance or resolution annexing territory to the city, the Board of Directors of the District may issue a notice of hearing on the question of annexing said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing, a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance of the city.

(2) The notice shall be published one time in a newspaper having general circulation in the city which made the annexation, such publication to be at least ten days before the date set for the hearing.

(3) If, pursuant to such hearing, the Board of Directors finds that the territory proposed to be annexed will be benefited by the water supply afforded or to be afforded by the District, the Board shall adopt resolution annexing said territory to the District. Added Acts 1961, 57th Leg., 1st C.S., p. 145, ch. 34, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

### Art. 8280—198a. White River Municipal Water District bonds

Section 1. Tom Bouchier, M. A. McLaughlin, Dr. A. C. Surman, J. S. Dennard, Al Ray Cooper, E. B. Blumberg, Dr. Dale Rhoades, Lynn D. Buzbee, J. C. McNeill, III, James L. Minor, George Gabriel, and Robert Work shall constitute the Board of Directors of White River Municipal Water District created by Chapter 221, Acts of the 55th Legislature (hereinafter called "District") until their successors are selected and qualified as now or hereafter provided by law. All acts heretofore performed by the persons above-named as directors of said District and by the persons who served before them as such directors are hereby validated.

Sec. 2. The election heretofore held in said District authorizing the issuance of bonds of the District, the levy of an ad valorem tax and the pledge of revenues to pay and secure payment of said bonds; the water supply contracts heretofore entered into between said District and the cities contained in said District, the resolution heretofore adopted by the directors authorizing the issuance of said bonds, the levy of the ad valorem tax and pledge of revenues and the trust indenture to pay and

secure payment of said bonds, and all procedures in assessing and equalizing valuations of taxable property in said District, are hereby validated.

Sec. 3. The directors above-named and their successors are fully authorized to proceed with the issuance, sale and delivery of said bonds, and to do all things necessary in connection therewith, and to proceed with the construction of the project for which said bonds were voted, and to exercise all of the other powers conferred by the law creating said District.

Sec. 4. This Act shall not validate any Act the validity of which is attacked in litigation pending at the time this Act becomes effective. Acts 1961, 57th Leg., 1st C.S., p. 146, ch. 35.

Effective 90 days after Aug. 8, 1961, date of adjournment.

Art. 8280—199. Fannin County Water Control and Improvement District No. 2

Fannin County Water Control and Improvement Districts Nos. 2, 3, validation, see art. 7880—1 note.

Art. 8280—200. Elm Creek Watershed Authority

Sec. 2. It is expressly determined and found that all of the land and all other property included within the area and boundaries of the Authority (Elm Creek Watershed Authority) will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said Authority was and is created to serve a public use and benefit. The area of the Authority shall be all of that territory enclosed within the following metes and bounds description, to-wit:

FIELD NOTES for Elm Creek Watershed Authority, said Authority being out of and a part of McLennan, Bell, Falls, and Milam Counties, Texas. BEGINNING at the intersection of the east right-of-way line of the Gulf, Colorado and Santa Fe Railroad with the south city limits line of the Town of Moody, Texas.

THENCE easterly and northerly with the said city limits, so as to exclude the said Town of Moody, to a point opposite the northwest corner of the J. Hennings Survey.

THENCE S. 71 deg. E., 7000 feet, more or less, to the northeast corner of the said Hennings Survey.

THENCE S. 19 deg. W., 1280 feet, more or less, with the east line of the Hennings Survey, a point therein for the northwest corner of the J. Leach Survey.

THENCE S. 71 deg. E., 3800 feet, more or less, the northeast corner of the said Leach Survey and S. 19 deg. W., 1060 feet, more or less, to a point in the east line of the said Leach Survey and in a public road for a corner of this.

THENCE with the said road as follows: easterly 3620 feet, more or less, and southeasterly 850 feet, more or less, with the north line of the Frank Denny Tract, S. 19 deg. W., 6320 feet, more or less, with the east line of the said Denny Tract, V. T. Bostick and J. W. Rutherford Tract; and S. 71 deg. E., 4550 feet, more or less, with the north line of the J. Decker Tract and the north line of the L. C. Strange Tract, leaving the said



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road before reaching the northeast corner of the said Strange Tract, the northeast corner of the said Strange Tract for a corner of this.

THENCE S. 19 deg. W., 1370 feet, more or less, a point in the east line of the said Strange Tract; S. 71 deg. E., 2750 feet, more or less, with the north line of the H. B. Hillyard Tract, a point in the McLennan-Bell County line for a corner of this.

THENCE westerly 1050 feet, more or less, with the said county line, a point therein for a corner of this.

THENCE S. 71 deg. E., 5380 feet, more or less, with the south line of the F. M. Miller and Wm. Fiend Tracts, and the north line of the G. Connall Tract; southerly 2950 feet, more or less, with the east line of the said Connall Tract and the west line of the J. Lancaster Tract and S. 71 deg. E., 3980 feet, more or less, with the south line of the said J. Lancaster Tract, a point in U. S. Highway #81 for a corner of this.

THENCE southerly 2450 feet, more or less, with the said highway, a point therein for a corner of this.

THENCE S. 71 deg. E., 3200 feet, more or less, the northeast corner of the Ed Spohn Tract and S. 19 deg. W., 3950 feet, more or less, the southeast corner of the Ed Spohn Tract, in a public road, and in the north line of the T. Hughes Survey, Abstract #385.

THENCE with said road as follows: S. 71 deg. E., 2360.0 feet, more or less, to the northeast corner of the Cliff Robinson Tract and S. 19 deg. W., 4910 feet, more or less, with the east line of the Cliff Robinson Tract and the west line of the Crawford and Maedgen Tracts; easterly 5750 feet, more or less, to the northeast corner of the C. A. Crawford Tract and the northwest corner of the C. C. Crawford Tract; S. 19 deg. W., 8200 feet, more or less, to the southwest corner of the Mrs. C. E. Maedgen Tract; this also being the southwest corner of the C. Rooney Survey, Abstract #687; S. 71 deg. E., 3650 feet, more or less, to the northwest corner of the T. Glasscock Tract in the north line of the D. H. Campbell Survey, Abstract #32, and S. 19 deg. W., 3920 feet, more or less, to a point in the said road for a corner of this, the southwest corner of the T. Glasscock Tract and the northwest corner of the Peggy McDonald Tract.

THENCE S. 71 deg. E., 1820 feet, more or less, to the northeast corner of the said McDonald Tract and S. 19 deg. W., 2050 feet, more or less, to the northwest corner of the W. Honeycutt Tract in the east line of the said McDonald Tract.

THENCE with the public road as follows: S. 71 deg. E., 8440 feet, more or less, with the south line of the M. T. Rae, Leo Siler and Brizendine Tracts, and the north line of the W. Honeycutt, R. Simmons and Hicks Tracts; S. 19 deg. W., 5120 feet, more or less, with the east line of the Campbell Survey and the west line of the E. Davis Survey, Abstract #246, the southwest corner of the Frank Porterfield Tract, this being also the northwest corner of the Lancaster Tract.

THENCE S. 71 deg. E., 1600 feet, more or less, the northeast corner of the said Lancaster Tract; S. 19 deg. W., 1740 feet, more or less, the northwest corner of the C. Rae Tract in the east line of the said Lancaster Tract; S. 71 deg. E., 2900 feet, more or less, the northeast corner of the Rae Tract in the west line of the Huffiend Tract; N. 19 deg. E., 360 feet, more or less, the northwest corner of the Huffiend Tract and S. 71 deg. E., 1960 feet, more or less, the northeast corner of the said Huffiend Tract in the west line of the Geo. Hunter Survey, Abstract #399.

THENCE N. 19 deg. E., 1750 feet, more or less, to the northwest corner of the said Hunter Survey and the southwest corner of the M. Hunt Survey, Abstract #444; S. 71 deg. E., 8820 feet, more or less, to the northeast corner of the said Hunter Survey and the southeast corner of the said Hunt Survey and N. 19 deg. E., 1650 feet, more or less, to a point in the east line of the said Hunt Survey and the south line of the W. C. Collier Tract for a corner of this.

THENCE S. 71 deg. E., 650 feet, more or less, and N. 19 deg. E., 400 feet, more or less, with the said Collier Tract, a point in the Bell-Falls County line for a corner of this.

THENCE N. 60 deg. E., 1200 feet, more or less, to a point for a corner of this, the northwest corner of the J. Vanicek Tract and a corner of the Rosie Meadows Est. Tract.

THENCE S. 30 deg. E., 1320 feet, more or less; N. 60 deg. E., 1400 feet, more or less, a corner of the said Meadows Tract; S. 30 deg. E., 2840 feet, more or less, a corner of the said Meadows Tract; S. 60 deg. W., 1345 feet, more or less, a corner of the Frank Lawler tract; S. 19 deg. W., 1560 feet, more or less, a corner of the said Lawler Tract and S. 71 deg. E., 2770 feet, more or less, to a corner of the said Lawler Tract and a corner of the Henry Meyer Est. Tract.

THENCE N. 60 deg. E., 9290 feet, more or less, with the north line of the said Meyer Estate Tract, the Henry Hoffman, Mick Beach, Reinder Estate and the J. E. Langford Tracts to the northeast corner of the said Langford Tract.

THENCE S. 30 deg. E., 10,340 feet, more or less, the southeast corner of Mrs. Ben Jansing Est. Tract; S. 60 deg. W., 2450 feet, more or less, the northwest corner of the H. Buckholt Tract and S. 30 deg. E., 4580 feet, more or less, to a point in Highway #320 for a corner of this.

THENCE southerly with the said highway, 1000 feet, more or less, to a point therein for a corner of this.

THENCE S. 30 deg. E., 4220 feet, more or less, the southeast corner of the N. Buckholt Tract; S. 60 deg. W., 3170 feet, more or less, the northwest corner of the Will Baletka Tract; S. 30 deg. E., 3240 feet, more or less, the southwest corner of the said Baletka Tract and N. 60 deg. E., 900 feet, more or less, a point in the south line of the said Baletka Tract for a corner of this.

THENCE S. 30 deg. E., 12,560 feet, more or less, the southeast corner of the E. Clark Survey and the southwest corner of the W. D. Walker Survey. THENCE N. 60 deg. E., 1520 feet, more or less, the northeast corner of the J. Smith Survey and S. 30 deg. E., 7780 feet, more or less, the southeast corner of the J. Smith Survey.

THENCE N. 60 deg. E., 3260 feet, more or less, to the northeast corner of the Alvin Voight Tract in the north line of the J. Wilson Survey.

THENCE S. 30 deg. E., 3650 feet, more or less, the southwest corner of the Emmett James Tract; N. 60 deg. E., 1960 feet, more or less, the southeast corner of the said James Tract; S. 30 deg. E., 4630 feet, more or less, the southwest corner of the F. W. Barkley Tract in the south line of the said Wilson Survey and N. 60 deg. E., 4120 feet, more or less, to the southeast corner of the said Wilson Survey, this being also the northeast corner of the J. Bratton Survey.

THENCE S. 30 deg. E., 8060 feet, more or less, the southwest corner of the I. D. Beckham Survey and N. 60 deg. E., 4980 feet, more or less, a point in the south line of the said Beckham Survey and the north line of the S.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

Bowers Survey for a corner of this, this also being the northeast corner of the L. B. Martin Tract.

THENCE S. 30 deg. E., 9720 feet, more or less, to the southeast corner of the Aigner Est. Tract.

THENCE westerly 5480 feet, more or less, to the southwest corner of the said Aigner Est. Tract.

THENCE S. 30 deg. E., 6550 feet, more or less, to the northwest corner of the Hoelscher Tract, this also being a corner of the E. K. Hamath Tract.

THENCE S. 71 deg. W., 11,190 feet, more or less, to the southwest corner of the Andy Vogelsang Tract.

THENCE S. 71 deg. E., 11,580 feet, more or less, with the south line of the said Vogelsang Tract and Mamie Hefley Tract, a point in Highway #77 for a corner of this, continuing 15,930 feet, more or less, with the south line of the Mrs. Frank Sherrill, Jim Majors, Eva Hightower, Hillyard Thomas, J. D. Link and W. E. Chamberland Tracts, a point in the Cameron-Clarkston Road for a corner of this.

THENCE southwesterly with the said road 5040 feet, more or less, to its intersection with Highway #190.

THENCE easterly with said Highway #190, 6460 feet, more or less, to Walkers Creek.

THENCE down Walkers Creek to Little River.

THENCE up Little River to the northeast corner of the Edwin Zawaski Tract.

THENCE N. 71 deg. W., 6880 feet, more or less, to the northwest corner of the Wallace Culpepper Tract in the Cameron-Silver City Road.

THENCE southerly with the said road to the city limits of the City of Cameron.

THENCE westerly and southerly with the said city limits, so as to exclude the City of Cameron, to their intersection with the "old" Highway #36.

THENCE westerly with the said highway to its juncture with the right-of-way of the Santa Fe Railroad.

THENCE westerly and northerly with the said right-of-way to its intersection with the southeast limits of Milam County Water Control District #1, (Buckholtz).

THENCE easterly, northerly and westerly with the limits of the said district, so as to exclude the said district, to their intersection with the southeast right-of-way of the Santa Fe Railroad.

THENCE westerly and northerly with the said right-of-way to its intersection with the southeast city limits of Rogers, Texas.

THENCE northerly, westerly and southerly with the said city limits, so as to exclude the City of Rogers, to their intersection with the southeast right-of-way of the Santa Fe Railroad.

THENCE westerly and northerly with the said right-of-way of the Santa Fe Railroad to a point therein for a corner of this, this also being the southwest corner of the N. S. Draughon 150 acre tract.

THENCE N. 19 deg. E., 4000 feet, more or less, with the west line of the said Draughon Tract to the northwest corner thereof; S. 71 deg. E., 300 feet to the southwest corner of the J. Siller Tract.

THENCE N. 19 deg. E., 5330 feet, more or less, with the west line of the said Siller Tract and the E. L. Baugh Tract, a point in the south line of the J. J. Prater Tract for a corner of this.

THENCE N. 71 deg. W., 1850 feet, more or less, to the southwest corner of the J. J. Prater Tract, said point being in a public road.

THENCE with the said road as follows: N. 19 deg. E., 4630 feet, more or less, with the west line of the said Prater Tract and the west line of the E. Lipps Tract; N. 71 deg. W., 7230 feet, more or less, with the south line of the J. S. Henson, Herman Beach and Lawson Brothers Tracts.

THENCE continuing northerly with the said road, 7350 feet, more or less, to a point for a corner of this.

THENCE continuing westerly with the said road, 8130 feet, more or less, to a point for a corner of this, this also being the southwest corner of the Dr. L. R. Talley Tract.

THENCE continuing northerly with the said road, 6950 feet, more or less, to a point for a corner of this.

THENCE continuing westerly with the said road, 7300 feet, more or less, to a bend in said road, and continuing westerly to a point for a corner of this, said point being the southwest corner of the City of Temple Tract, and the southeast corner of the Lester Lawhorn Tract; being a total distance of 8820 feet, more or less.

THENCE N. 19 deg. E., 1700 feet, more or less, the northeast corner of the said Lawhorn Tract; N. 71 deg. W., 1820 feet, more or less, a point in the north line of the said Lawhorn Tract for a corner of this, the southwest corner of the Kirk Tract and the southeast corner of the N. S. Draughon Tract.

THENCE N. 19 deg. E., 3800 feet, more or less, with the east line of the said Draughon Tract and the west line of the said Kirk Tract, a point in a public road for a corner of this.

THENCE N. 71 deg. W., 1000 feet, more or less, to the city limits of the City of Temple.

THENCE northerly and westerly with the city limits of the City of Temple and with the right-of-way of the Missouri-Kansas & Texas Railroad, a point for a corner of this and the northeast corner of the Bell Broadcasting Company Tract.

THENCE N. 71 deg. W., 3380 feet, more or less, to Highway #81.

THENCE southerly with said highway, 740 feet, more or less, to a point for a corner of this.

THENCE N. 71 deg. W., 4800 feet, more or less, to the southwest corner of the Stevens Est. Tract, this being also the southeast corner of the J. E. Easterwood Tract.

THENCE N. 19 deg. E., 3400 feet, more or less, the northeast corner of the said Easterwood Tract; westerly 4850 feet, more or less, to the northwest corner of the H. E. Easterwood Tract and the southwest corner of the Davidson Tract.

THENCE N. 19 deg. E., 6920 feet, more or less, with the west line of the Davidson O'Conner and Fox Tracts, a point in the south line of the Tom Morgan Tract for a corner of this, said point also being in the south line of the Wm. Gilmore Survey, Abstract #339.

THENCE N. 71 deg. W., 2250 feet, more or less, to the southwest corner of the Tom Morgan Tract; N. 19 deg. E., 11,300 feet, more or less, with the west line of the Morgan, Gunther, R. S. Morgan and Homer Southerland Tracts, a point in the right-of-way line of the Santa Fe Railroad for a corner of this.

THENCE northerly with the said railroad, 2660 feet, more or less, to the northwest corner of the T. C. Cloud Tract.

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THENCE easterly 3200 feet, more or less, to the east line of the Wm. Gilmore Survey, Abstract #340.

THENCE N. 19 deg. E., with the east line of the Wm. Gilmore Survey to the northeast corner of the Lynch Est. Tract.

THENCE westerly 3200 feet, more or less; southerly 1300 feet, more or less, and westerly 4500 feet, more or less, with the north line of the Lynch Est. Tract to the right-of-way of the Gulf, Colorado and Santa Fe Railroad Company.

THENCE northerly with the said right-of-way to the place of beginning, containing 300 square miles of land, more or less. As amended Acts 1961, 57th Leg., p. 631, ch. 297, § 1.

<sup>1</sup> So in enrolled bill.

Sec. 3. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution and the Authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state. As amended Acts 1961, 57th Leg., p. 631, ch. 297, § 2.

Sec. 6. All bonds of the Authority 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, guardians, and for the sinking funds 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, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by all unmatured interest coupons appurtenant thereto.

No election shall be necessary for the purpose of confirming the organization of the Authority and no hearing shall be held to determine whether any lands or property included within the boundaries of the Authority should be excluded.

The ad valorem plan of taxation is hereby adopted for the Authority and all taxes hereafter levied by the Authority shall be on an ad valorem basis and no hearing shall be required on a plan of taxation. As amended Acts 1961, 57th Leg., p. 631, ch. 297, § 3.

Sec. 9. Directors of the Authority shall subscribe to the constitutional oath of office, and each shall give bond in the amount of One Thousand Dollars (\$1,000.00) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority of the directors shall constitute a quorum.

Each director shall serve until his successor has been duly elected or appointed and has duly qualified.

Failure to call an election for directors will in no way affect the legal status of the Authority or the Board of Directors or the individual directors or the right of said Board of Directors to act or function and the directors shall serve until an election is held under the provisions of this law and the succeeding directors have been duly elected or appointed and

have duly qualified. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining directors.

The Authority, the Board of Directors of the Authority and all actions of the Board of Directors of the Authority heretofore taken are hereby in all things ratified, validated and confirmed, except those actions taken in connection with the maintenance tax and bond election held in the Authority on July 16, 1960, and any actions in connection with proceedings for the exclusion of land from the Authority or the defining of the boundaries of the Authority.

The Authority is authorized to expend funds collected as maintenance taxes for easements and rights-of-way and for any of the purposes for which an Authority could expend bond proceeds as well as for maintenance purposes and the Authority is authorized to place surplus maintenance funds not needed for maintenance purposes into the sinking funds for any outstanding bonds of the Authority. The determination by the Board of Directors of the expenditure of maintenance funds of the Authority shall be final and cannot be judicially reviewed save on the grounds of fraud, palpable error, or gross abuse of discretion.

If the plans for works and improvements or amendments thereto contemplated by the Authority are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the Authority's Directors, it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same, be filed in the office of the Authority before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto to be approved by the State Board of Water Engineers prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the State Board of Water Engineers shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the Authority, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the Authority to the State Board of Water Engineers.

When bonds have been issued by the Authority and said bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds shall be incontestable for any cause save fraud, forgery and unconstitutionality.

The provisions of Article 7880—77b, Vernon's Civil Statutes, or any other General Law pertaining to the calling of a hearing for the determination of the dissolution of a District or an authority where a bond election has failed shall be inapplicable to this Authority, and this Authority shall continue to exist and have full powers to function and operate regardless of the outcome of any bond election. As amended Acts 1961, 57th Leg., p. 631, ch. 297, § 4.

Emergency. Effective June 24, 1961.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 8280—204. North Tarrant County Municipal Water District**

Northeast Tarrant County Water Authority, see art. 8280—173.

**Art. 8280—206. Bistone Municipal Water Supply District**

Sec. 2. Said District shall contain all the territories contained in the boundaries of the City of Mexia, Limestone County, as the boundaries of the said City of Mexia are set forth in ordinances passed prior to the effective date of this Act and all ordinances pertaining to the extension of the city limits of the City of Mexia that are passed in the future. As amended Acts 1961, 57th Leg., p. 553, ch. 258, § 1.

Sec. 3.

(b). Five directors shall be appointed from each city in the District. As amended Acts 1961, 57th Leg., p. 553, ch. 258, § 2.

Sec. 5.

(j). After territory is added to the District, the property so added is liable for its proportionate part of all bonds, issued by the District then outstanding, provided, however, that the District will furnish water to the property owners assuming the bond indebtedness. As amended Acts 1961, 57th Leg., p. 553, ch. 258, § 3.

Emergency. Effective May 29, 1961.

**Art. 8280—807. Tarrant County Water Control and Improvement District No. 1**

Northeast Tarrant County Water Authority, see art. 8280—173.

**Art. 8280—207a. Tarrant County Water Control and Improvement District No. 1; retirement, disability and death compensation fund**

Section 1. The Board of Directors of the Tarrant County Water Control and Improvement District Number One shall have the right to provide for and administer a retirement, disability and death compensation fund for such officers and employees of the District as the Directors may from time to time determine; and the Directors of said District shall have power and authority to adopt such plan or plans to effectuate the purpose of this Act, including such forms of insurance or annuities, (either or both), all as may be deemed advisable by said Directors; provided that said Directors shall have the power and authority from time to time, after notice to their employees and a hearing thereon, to change any such plan, rule or regulation.

Sec. 2. All funds provided from the compensation of such officers or employees, and by the District, for such retirement, disability and death compensation fund, after they are received by the District, shall be invested in either or both of the following ways: (1) in bonds of the United States, the State of Texas, or county or city or other governmental subdivisions of this State, or in bonds issued by an agency of the United States Government, the payment of the principal and interest on which is guaranteed by the United States, provided that a sufficient amount of said fund shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of said fund; such amount of funds to be kept on hand to be determined by the Directors of the District; or (2) in such life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance company or com-

panies authorized to write such contracts in Texas, as may be determined by the Directors of the District; provided that said Directors shall have power and authority, from time to time, as they may deem advisable, to change from one of said ways of investment to the other, or any combination of the two; and provided that the recipients or beneficiaries from said fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless the fund, the creation of which is provided for herein, contributed by the District, is released to the State of Texas as a condition precedent to receiving such other pension aid.

Sec. 3. The Board of Directors of said District shall have the right to include hospitalization, group life insurance and medical benefits to their officers and employees as part of the compensation currently paid to such officers and employees by such District, all as may be provided for in any plan, rule or regulation from time to time made by said Directors, or otherwise as said Directors may determine, provided that said Directors shall have power and authority from time to time to change any such plan, rule or regulation.

Sec. 4. This Act shall be cumulative of other laws governing Tarrant County Water Control and Improvement District Number One and shall not be construed to repeal any other Statutes or regulations for the government of such District, except to the extent that this Act may conflict therewith, in which event this Act shall control. All other Statutes governing such District, or applying to it and regulating the handling of the accounts of such District, the payment of money and the time, method and manner of making reports and all other matters shall continue in full force and effect and shall regulate the handling of funds under this Act, except as otherwise herein expressly provided. Acts 1961, 57th Leg., p. 761, ch. 352.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 8280—207b. Tarrant County Water Control and Improvement District No. 1; Sewage and Industrial Waste and Effluent, Facilities for Disposal**

Section 1. In addition to other purposes heretofore authorized by law, Tarrant County Water Control and Improvement District No. 1 is authorized to purchase, construct, improve and repair works and facilities necessary for the transportation, treatment and disposal of sewage and industrial wastes and effluent and to issue negotiable bonds for such purposes and said District may make contracts with cities and others under which the District will transport, treat and dispose of sewage from such cities. The District may also make contracts with any city for the use of certain sewage transportation, treatment and disposal facilities owned by such city or by the District.

Sec. 2. Bonds issued under this law may be payable from the revenues under any contract or contracts or other income and, if authorized by an election, they may be made payable from taxes or from taxes and revenues. The provisions of Chapter 268, Acts of the 55th Legislature<sup>1</sup> relating to bonds issued by said District shall be applicable to bonds issued under this Act.

Sec. 3. (a) The District may have its bonds and sewer contracts approved by the Attorney General with the effect prescribed in said Section 268, or, in the discretion of its Board of Directors, may have them validated by a suit in the District Court in the manner and with the effect



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provided in Chapter 316, Acts of the 56th Legislature,<sup>2</sup> or may have the bonds and contracts validated by suit and approved. The interest rate and sale price of the bonds need not be fixed until after the termination of the validation proceedings or suit.

(b) If the proposed bonds recite that they are secured by a pledge of the proceeds of a contract or contracts theretofore made between the District and one or more cities the petition shall so allege and the notice of the suit shall mention such allegation and the city fund or revenues from which such contract or contracts are payable. Such suit shall be in the nature of a proceeding in rem. The judgment shall be res adjudicata as to the validity of such contract or contracts and the pledge of the revenues thereof.

Sec. 4. In the event that the District, in the exercise of any of the powers granted hereunder whether it be the power of eminent domain, the power of relocation, or any other power, 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, lowering, rerouting, 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. The power of eminent domain exercised by the Tarrant County Water Control and Improvement District under this Act shall be limited to Tarrant County, Texas. Acts 1961, 57th Leg., p. 939, ch. 414.

<sup>1</sup> Article 8280—207.

<sup>2</sup> Article 717m.

Emergency. Effective June 17, 1961.

#### Art. 8280—211. Bell County Water Control and Improvement District # 6

Sec. 2. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District (Bell County Water Control and Improvement District No. 6) will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit. The area of the District shall be all of that territory enclosed within the following metes and bounds description, to-wit:

BEGINNING at intersection of right bank of Leon River with center line of Belton-Shallow Ford Road.

THENCE westerly with said road, 6800 feet, more or less, to east line of M. F. Connell Survey, Abstract #6.

THENCE N. 19° E., 925 feet, more or less, with said survey to point that would intersect East 6th Street, Belton, Texas.

THENCE westerly with said 6th Street to Santa Fe Railroad Belton Spur.

THENCE northerly with said Spur to Santa Fe Railroad Main Line Right-of-Way.

THENCE westerly with said Santa Fe Right-of-Way to road going north to Belton Dam Site.

THENCE northerly 800 feet, more or less, with Belton Dam Site Road to north line of Lewis Walker Survey, Abstract #860.

THENCE N. 71° W., 12,000 feet, more or less, with north line of Walker Survey, to its northwest corner.

THENCE S. 19° W., 150 feet, more or less, to Belton-Sparta Road.

THENCE northwesterly 4500 feet, more or less, with said Belton-Sparta Road to east line of A. C. Barrington Tract.

THENCE northerly 2300 feet, more or less, with east line of Barrington Tract to its northeast corner, in north line of Wm. Norvell Survey, Abstract #627.

THENCE N. 71° W. to the northwest corner of Norvell Survey and the northeast corner of Wiley Jones Survey, Abstract #475.

THENCE S. 19° W. with Fort Hood Reservation and the east line of Jones Survey 7400 feet, more or less, to corner of said Reservation.

THENCE westerly 16,000 feet, more or less, with said Reservation south line, to the most northerly northwest corner of C. O. Kaiser Tract.

THENCE southerly 860 feet, more or less, with said Reservation Line to an ell corner of Kaiser Tract.

THENCE N. 71° W., 7800 feet, more or less, to a point in the east line of Wm. Brown Survey, Abstract # 87.

THENCE S. 19° W. to the southeast corner of said Brown Survey.

THENCE N. 71° W. to the southwest corner of said Brown Survey, in the east line of G. W. Cartwright Survey.

THENCE southerly 3880 feet, more or less, with Reservation Line and east line of said Cartwright Survey to the northeast corner of T. J. Cox Tract.

THENCE N. 71° W., 1850 feet, more or less, with Reservation and Cox Line to northwest corner of Cox's Tract in the east line of Grady Bagby Tract.

THENCE N. 19° E., 1100 feet, more or less, with Bagby's east line and Reservation Line, to the northeast corner of Bagby Tract.

THENCE westerly 5800 feet, more or less, with Reservation Line and north line of Bagby and T. L. Bishop Tracts, a corner in east line of Perry Hicks Tract.

THENCE northerly 1450 feet, more or less, to Hicks northeast corner and corner of Reservation.

THENCE N. 71° W., 3100 feet, more or less, to point in public road for corner of this.

THENCE northwesterly 8000 feet, more or less, with said road and Reservation Line to northwest corner of W. S. Whitmire Tract and corner of this.

THENCE N. 71° W., 3500 feet, more or less, with Reservation Line to northwest corner of E. R. Hilliard Tract.

THENCE S. 19° W., 850 feet, more or less, to northeast corner of W. T. Dugger Tract.

THENCE N. 71° W., 1320 feet, more or less, with Reservation Line and north line of Dugger to Dugger's northwest corner in west line of A. Dickson Survey, Abstract #235.

THENCE S. 19° W., 4600 feet, more or less, with Reservation Line to corner thereof.

THENCE westerly 9100 feet, more or less, with Reservation Line to northwest corner of Fairway Park Addition, Killeen, Texas, and corner of Reservation.

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THENCE S. 19° W., 1300 feet, more or less, to corner of Fairway Park Addition, S. 71° E., 100 feet, more or less to ell corner of Fairway Park Addition, and S. 19° W., 1200 feet, more or less, to the north line of A. Thompson Survey, Abstract #813.

THENCE N. 71° W. to northwest corner of A. Thompson Survey.

THENCE S. 19° W., 5800 feet, more or less, with Reservation Line to ell corner of Wendland Tract.

THENCE N. 71° W., 800 feet, more or less, and S. 19° W., 1500 feet, more or less, to point in east line of Thomas Robinett Survey, Abstract #686, northeast corner of Mrs. Joe Harris Tract for corner of this and of Reservation.

THENCE N. 71° W., 8000 feet, more or less, with Reservation Line, the northwest corner of L. A. Williams Tract.

THENCE southwesterly 3400 feet, more or less, with Reservation Line to a point in north line of Oscar Rose Tract.

THENCE N. 71° W., 5700 feet, more or less, to west line of said Robinett Survey and the northwest corner of H. Shorn 251 acre tract.

THENCE S. 19° W., 13,900 feet, more or less, to southwest corner of Theron Shepard Tract in west line of J. E. Madera Survey, Abstract #600.

THENCE S. 71° E., 1800 feet, more or less, to most southerly southeast corner of said Shepard Tract in west line of C. V. Bouchelle Tract.

THENCE N. 19° E., 600 feet, more or less, to the most northerly northwest corner of the Bouchelle Tract.

THENCE S. 71° E., 1600 feet, more or less, to northeast corner of Bouchelle Tract in west line of A. J. Henderson Tract.

THENCE N. 19° E., 1700 feet, more or less, to the most northerly northwest corner of Henderson Tract, S. 71° E., 600 feet, more or less, to an ell corner of Henderson Tract, and N. 19° E., 2300 feet, more or less, to the northwest corner of said Henderson Tract in south line of Robinett Survey.

THENCE S. 71° E., 12,000 feet, more or less, with south line of Robinett Survey and projecting said line to west line of Azra Webb Survey, Abstract #857, for a corner of this.

THENCE S. 19° W., 7000 feet, more or less, with west line of said Webb Survey and road to southwest corner of said Webb Survey.

THENCE S. 71° E., 6000 feet, more or less, to southeast corner of said Webb Survey, a road intersection for corner of this.

THENCE easterly with public road, at 5400 feet, more or less, the southwest corner of Sarah Llewelyn 100 acre tract.

THENCE northerly 1300 feet, more or less, to the northwest corner of said 100 acre tract, and easterly 2000 feet, more or less, to northeast corner of said 100 acre tract in west line of Llewelyn 300 acre tract.

THENCE N. 19° E., 1800 feet, more or less, with west line of said 300 acre tract, 2500 feet, more or less, from the northwest corner thereof.

THENCE N. 71° E., 5600 feet, more or less, to point in east line of Robert Cunningham Survey, Abstract #199, and west line of Robert Cunningham Survey, Abstract #198, and southwest corner of L. M. Parmer 100 acre tract.

THENCE N. 19° W., 2000 feet, more or less, to southwest corner of E. L. Sprott Tract.

THENCE N. 71° E., 2000 feet, more or less, with south line of Sprott Tract to southeast corner of Sprott Tract.

THENCE N. 19° W., 1650 feet, more or less, to northwest corner of R. L. Bigham Tract in north line of said Cunningham Survey, Abstract #198.

THENCE N. 71° E., 2800 feet, more or less, with north line of Bigham Tract and north line of Cunningham Survey to point in Killeen-Salado Road.

THENCE easterly 3300 feet, more or less, with said road to southwest corner of J. A. Cox Survey, Abstract #189.

THENCE S. 71° E., 5000 feet, more or less, with south line of said Cox Survey and south line of J. J. Tomlinson Survey, Abstract #831, the southeast corner of said Tomlinson Survey in west line of Martha Smith Survey, Abstract #750, for corner of this.

THENCE N. 19° E., 660 feet, more or less, with said Smith's west line to northwest corner of Norris Tract.

THENCE S. 71° E., 4300 feet, more or less, to east line of said Smith Survey and west line of Albert Gallatin Survey, Abstract #363.

THENCE S. 19° W., 2300 feet, more or less, to southwest corner of said Gallatin Survey.

THENCE S. 71° E., 5280 feet, more or less, to southeast corner of said Gallatin Survey in west line of Eliz Dawson Survey, Abstract #258.

THENCE S. 19° W., 1300 feet, more or less, to most westerly southwest corner of said Dawson Survey.

THENCE S. 71° E., 4400 feet, more or less, to point in east line of said Dawson Survey, and west line of Uriah Hunt Survey, Abstract #401, said point being in road and in west line of M. D. Boydston Tract.

THENCE S. 19° W., 500 feet, more or less, to southwest corner of Boydston Tract at road intersection.

THENCE easterly 5000 feet, more or less, with said road to northwest corner of Vernon Ellis Tract, in east line of said Hunt Survey.

THENCE S. 19° W., 1600 feet, more or less, with Hunt east line to northwest corner of the J. M. Lane Survey, Abstract #531.

THENCE S. 71° E. to most northerly northeast corner of said Lane Survey.

THENCE S. 19° W. to ell corner of said Lane Survey.

THENCE S. 71° E. to most easterly northeast corner of said Lane Survey.

THENCE S. 19° W. to southeast corner of said Lane Survey and most southerly corner of P. G. Rucker Survey, Abstract #1119, in north line of T. J. Nabors Survey, Abstract #631.

THENCE N. 71° E. to northeast corner of said Nabors Survey.

THENCE S. 19° E. to west line of Bill Wendland Tract.

THENCE N. 19° E., 1600 feet, more or less, with Wendland west line to south line of John Hughes Survey, Abstract #379.

THENCE N. 71° W., 1000 feet, more or less, to southwest corner of said Hughes Survey.

THENCE N. 19° E. with said west line to Belton-Keyes Valley Road.

THENCE easterly 12,000 feet, more or less, with said road to its intersection with Highway #190, at Fred Hills.

THENCE easterly with said Highway #190, to west line of John Lewis Survey, Abstract #512; at W. T. Mills northwest corner.

THENCE S. 19° W., 1200 feet, more or less, to Mills southwest corner.

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THENCE S. 71° E., 4600 feet, more or less, with south lines of Mills, Mrs. J. C. Varnell and Mrs. Katie Peeler Tracts to point in public road, southeast corner Peeler Tract for corner of this.

THENCE S. 19° W. with said road, 1200 feet, more or less, to southwest corner of H. C. Farrell Tract.

THENCE easterly 7200 feet, more or less, with road to southeast corner of F. R. Stegall Tract, in the west line of J. S. Huey Tract, in the east line of the J. Townsend Survey, Abstract #818.

THENCE S. 19° W., 1300 feet, more or less, to J. Townsend southeast corner in west line of J. P. Wallace Survey, Abstract #906.

THENCE S. 71° E., 17,500 feet, more or less, to east line of O. T. Tyler Survey, Abstract #20.

THENCE N. 19° E., 4000 feet, more or less, to northeast corner of Tyler Survey on right bank of Leon River.

THENCE up said Leon River to the place of beginning.

It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of said District, and the right of said District to issue bonds or refunding bonds, or to pay the principal and/or interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said District or its governing body. As amended Acts 1961, 57th Leg., p. 644, ch. 300, § 1.

Sec. 3. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution and the District shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits, made on the sale thereof, shall at all times be free from taxation within this state. As amended Acts 1961, 57th Leg., p. 644, ch. 300, § 2.

Sec. 6. All 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, guardians, and for the sinking funds 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, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by all unmatured interest coupons appurtenant thereto.

No election shall be necessary for the purpose of confirming the organization of the District and no hearing shall be held to determine whether any lands or property included within the boundaries of the District should be excluded.

The ad valorem plan of taxation is hereby adopted for the District and all taxes hereafter levied by the District shall be on an ad valorem basis and no hearing shall be required on a plan of taxation. As amended Acts 1961, 57th Leg., p. 644, ch. 300, § 3.

Sec. 9. Directors of the District shall subscribe to the constitutional oath of office, and each shall give bond in the amount of One Thousand Dollars (\$1,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of the directors shall constitute a quorum.

Each director shall serve until his successor has been duly elected or appointed and has duly qualified.

Failure to call an election for directors will in no way affect the legal status of the District or the Board of Directors or the individual directors or the right of said Board of Directors to act or function and the directors shall serve until an election is held under the provisions of this law and the succeeding directors have been duly elected or appointed and have duly qualified. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining directors.

The District, the Board of Directors of the District, and all actions of and all contracts made heretofore by the Board of Directors of the District, are hereby in all things ratified, validated and confirmed.

The District shall have the right, power and authority to acquire, construct, improve, repair, maintain and operate structures and facilities within and without the boundaries of the District.

The District is authorized to expend funds collected as maintenance taxes for easements and rights-of-way and for any of the purposes for which a District could expend bond proceeds as well as for maintenance and operation purposes and the District is authorized to place surplus maintenance funds not needed for maintenance purposes into the sinking funds for any outstanding bonds of the District. The determination by the Board of Directors of the expenditure of maintenance funds of the District shall be final and cannot be judicially reviewed save on the grounds of fraud, palpable error, or gross abuse of discretion.

If the plans for works and improvements or amendments thereto contemplated by the District are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the District's directors, it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same, be filed in the office of the District before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto, to be approved by the State Board of Water Engineers prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the State Board of Water Engineers shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the District, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the District to the State Board of Water Engineers.

When bonds have been issued by the District and said bonds have been approved by the Attorney General of Texas and registered by the

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Comptroller of Public Accounts, said bonds shall be incontestable for any cause save fraud, forgery and unconstitutionality.

The provisions of Article 7880—77b, Vernon's Civil Statutes, or any other General Law pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and have full powers to function and operate regardless of the outcome of any bond election. As amended Acts 1961, 57th Leg., p. 644, ch. 300, § 4.

Emergency. Effective June 14, 1961.

#### Art. 8280—212. Ecletto Creek Watershed District

Sec. 15(a). The Board of Directors shall have the authority to levy and collect taxes to secure funds for maintenance purposes, including but not limited to funds for planning, maintaining, repairing and operating all necessary plants, properties, facilities and improvements of the District and for the payment of proper services, engineering and legal fees, and administrative expenses, provided the levy of such tax is first approved by a majority of the resident qualified property taxpaying voters of the District who own taxable property therein and who have duly rendered the same for taxation who participate in an election called for such purpose. The order calling the election shall specify the maximum rate of tax which may be levied for such purpose, and the election shall be called, held and conducted in the manner herein provided for an election to authorize the issuance of bonds. Subsequent elections may be called to change the maximum rate of tax which may be levied and collected for such purposes and such elections shall be held and conducted in the manner herein provided. Acts 1957, 55th Leg., 1st C.S., p. 52, ch. 25, § 15(a) added Acts 1961, 57th Leg., p. 258, ch. 134, § 1.

Emergency. Effective May 15, 1961.

Section 1 of the act of 1961 added section 15(a) to this article. Section 2 of the act provided:

"The actions and proceedings in ordering, conducting and holding the election within the Ecletto Creek Watershed Improvement District, whereat a majority of the resident qualified property taxpaying voters of such District voted in favor of the proposition submitted to authorize the levy and collection of a tax for the purpose of operating and maintaining the improvements of the District and to give and maintain proper service for the purpose

of its organization and on the proposition to authorize the issuance of bonds by such District, and the action of the Board of Directors of such District in canvassing the returns and declaring the result of said election are hereby in all things validated, ratified, approved and confirmed, and the Board of Directors of such District is hereby specifically authorized to levy and collect taxes for maintenance purposes (within the limits prescribed in the proposition submitted at election) and to levy and collect taxes adequate to provide for the payment of the principal of and interest on the bonds issued or to be issued by such District."

#### Art. 8280—213. Hondo Creek Watershed Improvement District

Sec. 15(a). The Board of Directors shall have the authority to levy and collect taxes to secure funds for maintenance purposes, including but not limited to funds for planning, maintaining, repairing and operating all necessary plants, properties, facilities and improvements of the District and for the payment of proper services, engineering and legal fees, and administrative expenses, provided the levy of such tax is first approved by a majority of the resident qualified property taxpaying voters of the District who own taxable property therein and who have duly rendered the same for taxation who participate in an election called for such purpose. The order calling the election shall specify the maximum rate of tax which may be levied for such purpose, and the election shall be

called, held and conducted in the manner herein provided for an election to authorize the issuance of bonds. Subsequent elections may be called to change the maximum rate of tax which may be levied and collected for such purposes and such elections shall be held and conducted in the manner herein provided. Added Acts 1961, 57th Leg., p. 117, ch. 64, § 1.

Emergency. Effective April 10, 1961.

Section 2 of the Act of 1961 provided: "The actions and proceedings in ordering, conducting and holding the election within the Hondo Creek Watershed Improvement District on September 6, 1960, whereat a majority of the resident qualified property taxpaying voters of such District voted in favor of the proposition submitted to authorize the levy and collection of a tax for the purpose of operating and maintaining the improvements of the District and to give and maintain proper service for the purpose of its organization and on the proposition to authorize the issuance of bonds by such District, and the action of

the Board of Directors of such District in canvassing the returns and declaring the result of said election are hereby in all things validated, ratified, approved and confirmed, and the Board of Directors of such District is hereby specifically authorized to levy and collect taxes for maintenance purposes (within the limits prescribed in the proposition submitted at such election) and to levy and collect taxes adequate to provide for the payment of the principal of and interest on the bonds of such District heretofore issued and approved by the Attorney General of Texas."

Art. 8280—228. Red River Authority of Texas

Sec. 16a. The Authority is expressly authorized to contract with cities, towns, or villages located within its boundaries for the purchase, lease, use, management, control or operation of water distribution plants, or systems owned by said cities, towns or villages, in accordance with such terms and conditions as may be mutually agreed upon by and between the governing bodies of the Authority and such city, town or village. In this connection the Authority is empowered to acquire by any such contract surface or underground water rights belonging to any such city, town or village; provided, however, that the Authority shall devote any such water rights so acquired to only such uses as the city, town or village from which they were acquired would be authorized to make of them; and, provided further, that the Authority shall use any such water rights so acquired only for the purposes of the water distribution plant or system of the city, town or village from which such water rights were acquired, and not otherwise. Added Acts 1961, 57th Leg., p. 1116, ch. 504, § 2.

Sec. 19. Said Authority shall have and may exercise such functions, powers, authority, rights and duties as may permit the accomplishment of the purposes for which it is created, including investigating and planning, acquiring, constructing, maintaining and operating of all necessary properties, lands, rights, tenements, easements, improvements, reservoirs, dams, canals, laterals, plants, works and facilities which it may deem necessary or proper for the accomplishment of said purposes, including the acquisition within and/or without said Authority of lands, rights-of-way, water rights and all other properties, tenements, easements and all other rights incident, helpful to, or in aid of carrying out the purposes of said Authority as herein defined; provided, however, that said Authority shall not engage in the generation or distribution of electric power. The right of eminent domain shall not be exercised or extend beyond the boundaries of this District. As amended Acts 1961, 57th Leg., p. 1116, ch. 504, § 1.

Effective 90 days after May 29, 1961, date of adjournment.



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Art. 8280—238. Valley Creek Water Control District

Sec. 2. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

The field notes of the District are hereby restated to clarify certain typographical, clerical and technical mistakes in the Act of the Legislature originally creating this District, but without making any changes in the boundaries or area of the District and without including or excluding any lands or properties in or from the District, and the area of the District shall be all of that territory enclosed within the following metes and bounds description, to wit:

TAYLOR COUNTY

All that portion of Taylor County located south and west of the following described line:

BEGINNING at the point where the Taylor and Nolan County line intersects the north line of Section 278 of Block 64, H & T C RR. Co. Survey;

THENCE east along the north lines of Section 278, 277, 276, and 275 of the same Survey to the northeast corner of Section 275 of said Survey;

THENCE south along the east line of Section 275 of Block 64, H & T C RR. Co. Survey to the northeast corner of Section 258 of the same Survey;

THENCE east along the north lines of Section 259 and 260 of same Survey to the northeast corner of Section 260 of same Survey;

THENCE south along the east lines of Section 260, 237, 224, 161, 148, 144, 135, and 133 of Block 64 of the H & T C RR. Co. Survey to the southeast corner of Section 133 of the same Survey;

THENCE west 2640 feet along the south line of Section 133, Block 64, H & T C RR. Co. Survey to the County Road;

THENCE southerly along the County Road with its meanders across Section 120 and Section 119 of Block 64, H & T C RR. Co. Survey to a point 2640 feet west of the northeast corner of Section 117 of same Survey;

THENCE west 2640 feet to the northwest corner of Section 117 of Block 64 of H & T C RR. Co. Survey;

THENCE south along the west line of Section 117 of the same Survey to the point where the Taylor and Runnels County line intersects the west line of Section 117 of Block 64, H & T C RR. Co. Survey.

NOLAN COUNTY

All that portion of Nolan County located south and east of the following described line:

BEGINNING at the point where the Taylor and Nolan County line intersects the north line of Section 278 of Block 64, H & T C RR. Co. Survey;

THENCE in a westerly direction along the north boundary line of said Section 278 and along the north boundary line of Section 279, Block 64, H & T C RR. Co. Survey, Nolan County, Texas, to the northwest corner of said Section 279 and the southeast corner of Section 289, Block 64, H & T C RR. Co. Survey, Nolan County, Texas;

THENCE in a northerly direction along the east boundary line of said Section 289 to the northeast corner thereof;

THENCE continuing in a northerly direction along the east boundary line of partial Section 307, Block 64, H & T C RR. Co. Survey to the northeast corner thereof;

THENCE in a westerly direction along the north boundary line of partial Section 307 and Partial Section 308 and Partial Section 309 to the northwest corner of said Partial Section 309, Block 64, H & T C RR. Co. Survey;

THENCE in a southerly direction along the west boundary line of Partial Section 309, Block 64, H & T C RR. Co. Survey and continuing in a southerly direction along the west boundary line of Section 287, Block 64, H & T C RR. Co. Survey to the southwest corner thereof;

THENCE in a westerly direction along the north boundary line of Section 283, Block 64, H & T C RR. Co. Survey to the northwest corner of said Section 283, Block 64, H & T C RR. Co. Survey;

THENCE in a southerly direction along the west boundary line of said Section 283, Block 64, H & T C RR. Co. Survey to the southwest corner thereof;

THENCE in a westerly direction along the north boundary line of Section 249, Block 64, H & T C RR. Co. Survey to the northwest corner thereof;

THENCE in a southerly direction along the west boundary lines of Sections 249, 248, 213, 212, 211 and 210, all in Block 64, H & T C RR. Co. Survey to the southwest corner of said Section 210, Block 64, H & T C RR. Co. Survey;

THENCE in an easterly direction along the south boundary line of Section 210, Block 64, H & T C RR. Co. Survey to the southeast corner of said Section;

THENCE in a southerly direction along the west boundary line of Section 201, Block 64, H & T C RR. Co. Survey to the southwest corner thereof;

THENCE in an easterly direction along the south boundary line of Section 201, Block 64, H & T C RR. Co. Survey to the southeast corner of said Section 201;

THENCE in a southerly direction along the west boundary line of Section 193, Block 64, H & T C RR. Co. Survey to the southwest corner thereof;

THENCE in an easterly direction along the south boundary line of Section 193, Block 64, H & T C RR. Co. Survey to the southeast corner thereof;

THENCE in a southerly direction along the west boundary line of the W. J. Wood Survey, Nolan County, Texas, to the southwest corner thereof;

THENCE in an easterly direction along the south boundary line of said W. J. Wood Survey to the southeast corner thereof;

THENCE in a northerly direction along the east boundary line of said W. J. Wood Survey to a point where said east boundary line of said W. J. Wood Survey is intersected by the south boundary line of the G. A. Cooper Survey, Nolan County, Texas;

THENCE in an easterly direction along the south boundary line of said G. A. Cooper Survey, Nolan County, Texas, to the southeast corner of said G. A. Cooper Survey;

THENCE in a southeasterly direction along the west boundary line of Section 297 of the Pedro Martínez Survey, Nolan County, Texas, to the most westernly southwest corner thereof;

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THENCE in a northeasterly direction along the south boundary line of said Section 297 of the Pedro Martinez Survey of Nolan County, Texas, to a point in said south boundary line of said Section 297, Pedro Martinez Survey, which is the northeast corner of Section 298, the Maria Candido Zuniga Survey in Nolan County, Texas;

THENCE in a southeasterly direction along the east boundary line of said Section 298, the Maria Candido Zuniga Survey, Nolan County, Texas, to a point which is the northwest corner of Section 296, Chas. Colerick Survey, Nolan County, Texas;

THENCE in a southeasterly direction along the west boundary lines of Sections 296, Chas. Colerick Survey, and 295 and 294, Edward Taylor Survey, Nolan County, Texas, to a point where the Nolan-Runnels County boundary line intersects the west line of said Section 294, Edward Taylor Survey.

#### RUNNELS COUNTY

All that portion of Runnels County described as follows:

BEGINNING at a point on the north line of Runnels County where the west line of Survey No. 117, Block No. 64, H & T C RR. Co. crosses said line;

THENCE south along the west line of Survey No. 117, Block 64, of H & T C RR. Co. Survey to the southwest corner of said Survey No. 117;

THENCE south along the west line of Survey No. 81, Block No. 64, H & T C RR. Co. Survey to a point where said Survey No. 81 intersects with the east line of Lilly or Lylia Forsythe Survey No. 450;

THENCE south 60 degrees west 2012 varas more or less;

THENCE south 30 degrees east 2079 varas more or less;

THENCE south 60 degrees west 350 varas, more or less, to a point in the east line of public road;

THENCE south 30 degrees east 787  $\frac{3}{10}$  varas, more or less;

THENCE south 60 degrees west 716  $\frac{8}{10}$  varas, more or less;

THENCE south 30 degrees east 1260  $\frac{8}{10}$  varas, more or less;

THENCE north 60 degrees east 716  $\frac{13}{20}$  varas, more or less, to the northeast corner of the George Berry Survey;

THENCE south on the east boundary line of George Berry Survey, 1337 varas, more or less, to the northwest corner of Survey No. 93, H & T C RR. Co. Survey, Block 64, same being the southwest corner of B.B.B. & C. Railway Company Survey;

THENCE south along west line of Survey No. 93, H & T C RR. Co., Block 64, to the southwest corner of said Survey, same being the northwest corner of Survey No. 81, Columbus Tap RR. Co. Survey, Block 63;

THENCE south along west line of Survey No. 81, Columbus Tap RR. Co., Block 63, to the southwest corner of said Survey;

THENCE westerly to the northwest corner of the B. M. Walker Survey;

THENCE southerly along the west lines of B. M. Walker Survey No. 401, to the southwest corner of said Survey to a point that intersects with Survey No. 71 C.T.R.R. Survey, Block 63;

THENCE east along the south line of B. M. Walker Survey No. 401, to the southeast corner of said Survey, same being the northeast corner of Survey No. 71, C.T.R.R. Survey;

THENCE south along the east line of Survey No. 71, C.T.R.R. Co. Survey, to the southeast corner of said Survey No. 71, same being the easternmost northeast corner of Survey No. 70, C.T.R.R. Survey;

THENCE south along the easternmost east line of Survey No. 70, C.T. R.R. Survey, to the southeast corner of said Survey No. 70, same being the northeast corner of Survey No. 57, C.T.R.R. Survey;

THENCE south along the east line of Survey No. 57, C.T.R.R. Survey, to the southeast corner of said Survey No. 57;

THENCE south along the west line of Survey No. 55, Block 63, H. T. & B. Railway Company Survey, to the southwest corner of said Survey No. 55;

THENCE east along the south line of Survey No. 55, Block No. 63, H. T. & B. Railway Co. Survey, to the northwest corner of Survey No. 48, Block 63, H. T. & B. Railway Company Survey;

THENCE south 360 varas, more or less, to a stone mound in the north line of Thomas Fowler Survey No. 440;

THENCE east 449 varas, more or less, to a stone mound, same being the northeast corner of said Thomas Fowler Survey No. 440;

THENCE south 1608 varas, more or less, to a stone mound on the east line of Thomas Fowler Survey No. 440, same being the northwest corner of J. C. Hill Survey No. 48;

THENCE south along the west line of J. C. Hill Survey No. 48, to the southwest corner of said Survey;

THENCE east along south line of J. C. Hill Survey No. 48, to a point where said Survey intersects with the west line of Survey No. 47, Block 63, H. T. & B. Railway Company Survey, same being the southeast corner of said J. C. Hill Survey No. 48;

THENCE south along the west line of Survey No. 47, Block 63, H. T. & B. Railway Company Survey, to the southwest corner of said Survey No. 47, same being the northwest corner of B. W. Taylor Survey No. 42;

THENCE south along the west line of B. W. Taylor Survey No. 42, 1080 varas;

THENCE east 1905 varas, more or less, to a point on the east line of B. W. Taylor Survey No. 42, said point being 1080 varas more or less, south of the northeast corner of said Survey;

THENCE south along east line of B. W. Taylor Survey No. 42, to the southeast corner of said Survey;

THENCE west 578 varas, more or less, along the north line of Survey No. 41, H. T. & B. Railway Company Survey, to the east line of a road which runs north and south through this Survey;

THENCE south along the east line of said new road, 1954 varas, more or less, to the south line of said Survey No. 41, H. T. & B. Railway Company Survey;

THENCE west along south line of said Survey No. 41, H. T. & B. Railway Company Survey, to the northeast corner of Burgis G. Hall Survey No. 437;

THENCE southerly along the east line of Burgis G. Hall Survey No. 437, 924 varas, more or less, to the southwest corner of Geo. Long Survey No. 44;

THENCE east 917 varas, more or less, along the south line of Geo. Long Survey No. 44, to the northeast corner of Reden Gaines Survey;

THENCE south along the west lines of Surveys Nos. 170, 169, and 166 of E. T. Railway Company Survey to the southwest corner of E. T. Railway Company Survey No. 166;

THENCE east along the south line of Survey No. 166, E. T. Railway Company to the northwest corner of Survey No. 417, H. T. & B. Railway Company Survey;

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THENCE south along the east line of Jos. Wamer Survey No. 418 to the southeast corner of said Survey;

THENCE west along the north line of William Howell Survey No. 821 to a stake 2329 varas, east of the northwest corner of said Survey;

THENCE south 625 varas to a point, same being 2006 varas, more or less, west and 625 varas, more or less, south of the northeast corner of William Howell Survey No. 821;

THENCE east 695 varas to a point 1311 varas, more or less, west and 625 varas, more or less, south of the northeast corner of William Howell Survey No. 821;

THENCE south 1118 varas to a point 1311 varas, more or less, west and 1743 varas, more or less, south of the northeast corner of William Howell Survey No. 821;

THENCE east 432 varas to a point, 879 varas, more or less, west and 796 varas, more or less, north of the southeast corner of William Howell Survey No. 821;

THENCE south 796 varas, more or less, to a point in the south line of William Howell Survey No. 821, 879 varas west of the southeast corner of said Survey;

THENCE east 879 varas, more or less, along south line of William Howell Survey No. 821 to the southeast corner of William Howell Survey No. 821;

THENCE southwest along the west line of the Rama Christa Survey No. 432 to the northeast corner of the J. H. Bostick Survey;

THENCE south 30 degrees east 13 varas, more or less, to a sheep proof fence;

THENCE south 63 degrees east along said fence 930 varas to a rock in the ground;

THENCE south 30 degrees west 1496 varas, more or less, to a stake and mound in the north line of John Fanchild Survey No. 356;

THENCE southeast along the north line of John Fanchild Survey No. 356 to the northeast corner of said Survey;

THENCE northeast to the northwest corner of the John Fanchild Survey No. 357;

THENCE southeast along north line of John Fanchild Survey No. 357 to the northeast corner of said Survey;

THENCE southwest along east boundary line of John Fanchild Survey No. 357 to the northwest corner of John R. Robbins Survey No. 358;

THENCE southeast along the north line of John R. Robbins Survey No. 358 to the northeast corner of John R. Robbins Survey No. 358;

THENCE southwest along east line of John R. Robbins Survey to the Colorado River;

THENCE west along the northern bank of the Colorado River, with its meanders, to the southeast corner of the S. C. Cleavland Survey No. 355;

THENCE northeasterly with the east line of said Survey 355 to the most easterly corner of the C. B. Taylor tract in said Survey 355;

THENCE westerly with the north lines of said C. B. Taylor tract to the intersection of same with the west line of said Survey 355;

THENCE continuing westerly with the north lines of said C. B. Taylor tract in Survey 354 to the intersection of same with the west line of said Survey 354;

THENCE southerly with the west line of Survey 354 to the northern bank of the Colorado River, same being the southeast corner of John M. Caldwell Survey No. 353;

THENCE up said Colorado River, with its meanders, to the southwest corner of John M. Caldwell Survey No. 353;

THENCE northeast 1525 varas along the west line of John M. Caldwell Survey No. 353 to a point;

THENCE northwest 950 varas, more or less, to the east line of the Candelario Garza Survey No. 351;

THENCE northeast along the east line of Candelario Garza Survey No. 351 to the northeast corner of said Survey;

THENCE northwest along the north line of Candelario Garza Survey No. 351 to the northwest corner of Candelario Garza Survey No. 351;

THENCE northeast along the east line of Nathan Hubbell Survey No. 350 to the northeast corner of said Survey;

THENCE northwest along the north line of Nathan Hubbell Survey No. 350 to the northwest corner of said Survey;

THENCE northeast along the east line of Mrs. Hulda Hollien Survey No. 131½ to a point in the south line of Juliana De La Garza Survey, same being the northeast corner of Mrs. Hulda Hollien Survey No. 131½;

THENCE west along the south line of Juliana De La Garza Survey to the southwest corner of said Survey;

THENCE north along west line of Juliana De La Garza Survey to the northwest corner of said Survey;

THENCE east along the north line of Juliana De La Garza Survey to the southwest corner of G. B. Pitant Survey No. 2;

THENCE north along the west line of G. B. Pitant Survey No. 2 to the westernmost northwest corner of said Survey;

THENCE east along the north line of G. B. Pitant Survey No. 2 to the southeast corner of H. & G. N. Railway Survey No. 37;

THENCE north along east line of H. & G. N. Railway Company Survey No. 37 to the northeast corner of said Survey, same being the southeast corner of H. & G. N. Railway Co. Survey No. 35;

THENCE north along the east line of H. & G. N. Railway Company Survey No. 35 to the northeast corner of said Survey, same being the southeast corner of H. & G. N. Railway Company Survey No. 32;

THENCE west along the north line of H. & G. N. Railway Company Survey No. 35 to the northwest corner of said Survey, same being the southwest corner of H. & G. N. Railway Company Survey No. 32;

THENCE north along east line of H. & G. N. Railway Company Survey No. 31, to the northeast corner of said Survey, same being the northwest corner of H. & G. N. Railway Company Survey No. 32;

THENCE west along south line of H. & G. N. Railway Company Survey 27 to a point 950 varas east from the southwest corner of said H. & G. N. Railway Company Survey No. 27;

THENCE north 723 varas to a stone mound 950 varas west of the east line of said H. & G. N. Railway Company Survey No. 27;

THENCE west 950 varas, more or less, to a rock set in the ground in the west line of said H. & G. N. Railway Company Survey No. 27;

THENCE north along the west line of H. & G. N. Railway Company Survey No. 27 to the northwest corner of said survey, same being the northeast corner of H. & G. N. Railway Company Survey No. 28;

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THENCE west along the south line of H. & G. N. Railway Company Survey No. 21 to the southwest corner of said survey;

THENCE north along the west line of H. & G. N. Railway Company Surveys No. 21, 16, and 9 to the northwest corner of H. & G. N. Railway Company Survey No. 9, same being the northeast corner of H. & G. N. Railway Company Survey No. 8;

THENCE east 475 varas to a point in the south line of Burnet County School Land Survey No. 271, said point being a rock set in the north line of Norton and Oak Creek road;

THENCE north 1527 varas to a rock for corner;

THENCE east  $535\frac{1}{2}$  varas to rock for corner; also being a stake in the north line of Block No. 12, a subdivision of said Burnet County School Land Survey No. 271, at a point 950 varas west of its northeast corner;

THENCE north  $1691\frac{1}{2}$  varas to a stake;

THENCE east 1200 varas to a point;

THENCE north 728 varas to a point;

THENCE north 89 degrees 50 minutes west 1417  $\frac{1}{10}$  varas to a point, a corner fence post;

THENCE north no degrees 4 minutes west  $2726\frac{3}{10}$  varas, more or less, to a point in the north line of Burnet County School Land Survey No. 271;

THENCE west along south line of T. B. Criddle Survey No. 2  $1001\frac{1}{10}$  varas, more or less, for corner, same being 1546 varas west from southeast corner of T. B. Criddle Survey No. 2;

THENCE north 950 varas, more or less, to a point in the north line of T. B. Criddle Survey No. 2;

THENCE east along north line of T. B. Criddle Survey No. 2, to a point 1182 varas, more or less, west of northeast corner of T. B. Criddle Survey No. 2 and same being the southwest corner of Annie Rieta Procter tract, in Survey No. 4;

THENCE north no degrees 20 minutes east 1334 varas, more or less, to the northwest corner of said Annie Rieta Procter tract, in Survey No. 4;

THENCE south 63 degrees 40 minutes west along south line of H. T. Sapp Survey No. 807, 378 varas;

THENCE north 30 degrees west 495 varas, more or less, to north line of H. T. Sapp Survey No. 807;

THENCE northeast along north line of H. T. Sapp Survey No. 807 to the southwest corner of Block 8, Samuel Hickman one-third league Survey;

THENCE northwest along the west line of Block No. 8 and Block No. 6 of Samuel Hickman one-third league Survey to the northwest corner of said Block No. 6;

THENCE south 60 degrees west along a south line of Edward Conley Survey No. 445 to the east corner of the Marvin Onken tract in said Edward Conley Survey No. 445;

THENCE north 30 degrees west 1191 varas, more or less, to a point in the north line of Block No. 3, a subdivision of Edward Conley Survey No. 445;

THENCE north 60 degrees east along the north line of Block 3, a subdivision of Edward Conley Survey No. 445, to the southwest corner of Block No. 2, a subdivision of Edward Conley Survey;

THENCE north 30 degrees west  $1108\frac{3}{4}$  varas, more or less, along the west line of Block No. 2, a subdivision of Edward Conley Survey No. 445, to the northwest corner of Block No. 2;

THENCE north 60 degrees east along the south line of W. C. Railway Company Survey No. 1 to the northeast corner of Block No. 2, a subdivision of Edward Conley Survey No. 445;

THENCE northwest along the east line of W. C. Railway Company Survey No. 1 to the northeast corner of said survey;

THENCE northeast along the south line of Hiram Friley Survey No. 448 to the southwest corner of Block No. F, a subdivision of Hiram Friley Survey No. 448;

THENCE northwest along the west line of Blocks F, E, D, and C, subdivisions of Hiram Friley Survey No. 448, to the northwest corner of Block C, same being the northeast corner of Block K, a subdivision of Hiram Friley Survey No. 448;

THENCE northeast along the north line of Block C, a subdivision of Hiram Friley Survey No. 448, to a point in the east line of Hiram Friley Survey No. 448, same being the northeast corner of said Block C;

THENCE northwest along the east line of Hiram Friley Survey No. 448 to the northeast corner of said survey;

THENCE southwest along north line of Hiram Friley Survey No. 448 to the southwest corner of Noah Smithwick Survey No. 545;

THENCE northwest along west line of Noah Smithwick Surveys No. 545 and 452 to the northwest corner of Noah Smithwick Survey No. 452;

THENCE northeast along the north line of Noah Smithwick Survey No. 452 to a point in the center of the south line of Green De Witt Survey No. 719;

THENCE northwest along the center line of Green De Witt Survey No. 719, to the center of the north line of Green De Witt Survey No. 719;

THENCE northeast along north line of Green De Witt Survey No. 719 to the northeast corner of Green De Witt Survey No. 719 to a point in the west line of James Jeffries Survey No. 293;

THENCE northwest along west line of James Jeffries Survey No. 293 to the northwest corner of James Jeffries Survey No. 293, same being the southwest corner of Edward Taylor Survey No. 294;

THENCE northwest along the west line of Edward Taylor Survey No. 294 to a point that intersects with the north line of Runnels County and the South line of Nolan County.

(THENCE east with the north line of Runnels County to the place of beginning—This call is not a boundary line of the Valley Creek Water Control District, but is stated here only to clarify the area within the said District in Runnels County.)

It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way affect the organization, existence and validity of the District, and the right of said District to issue bonds heretofore or hereafter voted or refunding bonds, or to pay the principal and/or interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said District or its governing body. As amended Acts 1961, 57th Leg., p. 127, ch. 70, § 1.

<sup>1</sup> So in enrolled bill.

Sec. 3. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax



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or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

All 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, guardians, and for the sinking funds 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, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by all unmatured interest coupons appurtenant thereto.

Directors of the District shall subscribe to the constitutional oath of office, and each shall give bond in the amount of One Thousand Dollars (\$1,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of the directors shall constitute a quorum.

Each director shall serve until his successor has been duly elected or appointed and has duly qualified.

Failure to call an election for directors will in no way affect the legal status of the District or the Board of Directors or the individual directors or the right of said Board of Directors to act or function and the directors shall serve until an election is held under the provisions of law and the succeeding directors have been duly elected or appointed and have duly qualified. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority vote of the remaining directors.

No election shall be necessary for the purpose of confirming the organization of the District and no hearing shall be held to determine whether any lands or property included within the boundaries of the District shall be excluded.

The ad valorem plan of taxation is hereby adopted for the District and all taxes hereafter levied by the District shall be on an ad valorem basis and no hearing shall be required on a plan of taxation.

The District, the Board of Directors of the District, and all actions of the Board of Directors of the District heretofore taken, the organization of the District, the bond and maintenance tax elections, hearing and order of the Board of Directors on the plan of taxation, and all notices and proceedings of the Board of Directors of the District, are hereby in all things ratified, validated and confirmed.

The District is authorized to expend funds collected as maintenance taxes for easements and rights-of-way and for any of the purposes for which a District could expend bond proceeds as well as for maintenance purposes and the District is authorized to place surplus maintenance funds not needed for maintenance purposes into the sinking funds for any outstanding bonds of the District. The determination by the Board of Directors of the expenditure of maintenance funds of the District shall be final and cannot be judicially reviewed save on the grounds of fraud, palpable error, or gross abuse of discretion.

If the plans for works and improvements or amendments thereto contemplated by the District are prepared by the Soil Conservation Service,

United States Department of Agriculture, and approved by the District's directors, it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same, to be filed in the office of the District before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto to be approved by the State Board of Water Engineers prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the State Board of Water Engineers shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the District, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the District to the State Board of Water Engineers.

When bonds have been issued by the District and said bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds shall be incontestable for any cause save fraud, forgery and unconstitutionality. As amended Acts 1961, 57th Leg., p. 127, ch. 70, § 2.

Emergency. Effective April 10, 1961.

Art. 8280—243. Palo Duro River Authority

Board of directors; term of office; vacancies; oath

Sec. 17. (a) All powers of the Authority shall be exercised by a Board of Directors (sometimes herein referred to as the "Board"), each of whom shall serve for a term of two (2) years except for the Directors appointed by this Act. The following Directors are hereby appointed:

Director	Residence	Term Expired
R. V. Converse	Spearman, Hansford County, Texas	December 31, 1962
William R. Murrell	Gruver, Hansford County, Texas	December 31, 1962
Virgil Mathews	Spearman, Hansford County, Texas	December 31, 1964
Dee Jackson	Spearman, Hansford County, Texas	December 31, 1964
L. D. Stinson	Perryton, Ochiltree County, Texas	December 31, 1962
Alton Witt	Perryton, Ochiltree County, Texas	December 31, 1962
Gene Akers	Perryton, Ochiltree County, Texas	December 31, 1964
J. R. Stump	Waka, Ochiltree County, Texas	December 31, 1964

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(b) In 1962, at the time of the regular State and county elections, there shall be elected one (1) Director from the Commissioners Precinct Nos. 1, 2, 3 and 4 in Hansford and Ochiltree Counties, Texas, whose terms shall commence on January 1, 1963, and who shall hold office for a period of two (2) years. Thereafter, Directors shall be elected to replace Directors whose terms expire in like manner. Any vacancy which may arise during the term of a Director shall be filled for the unexpired term of such Director by the Board of Directors, provided that such appointee shall reside in the Commissioners Precinct in which the vacancy occurs. No person shall be elected or appointed a Director unless he resides in and owns taxable property in the Commissioners Precinct which he represents.

(c) Such Directors shall subscribe the Constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000) the cost of which shall be paid by the Authority. A majority shall constitute a quorum. As amended Acts 1961, 57th Leg., 1st C.S., p. 198, ch. 59, § 1.

Emergency. Effective Aug. 26, 1961.

#### Bond issue; election; ad valorem taxes

Sec. 23. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by a majority of the votes cast at an election at which only the qualified voters who reside in the Authority and who own taxable property therein and who have duly rendered the same for taxation may vote. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election. As amended Acts 1961, 57th Leg., 1st C.S., p. 198, ch. 59, § 2.

Emergency. Effective Aug. 26, 1961.

#### Tax Elections

Sec. 27. The Authority may upon a favorable majority vote of the qualified property taxpaying electors of the Authority, voting at an election held within the boundaries of the Authority for that purpose, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate dams, works, plants and facilities deemed essential or beneficial to the Authority and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of the maintenance, operation and administration of the Authority. Elections for the levy of such taxes shall be ordered by the Board of Directors and shall be held and conducted in the manner provided by this law relating to elections for the authorization of bonds. All taxes levied by the Authority for any purpose shall constitute a lien on the property against which levied and shall not bar the enforcement or collection thereof. As amended Acts 1961, 57th Leg., 1st C.S., p. 198, ch. 59, § 3.

Emergency. Effective Aug. 26, 1961.

#### Art. 8280—245. Bowie County Water Supply District

Section 1. (a) Pursuant to authority conferred by Section 59 of Article 16 of the Constitution, there is hereby created within the State of Texas, in addition to the Districts into which the state has heretofore been divided, a conservation and reclamation district to be located wholly within Bowie County, Texas, and known as the "BOWIE COUNTY WATER SUPPLY DISTRICT," hereinafter called "District." The boundaries thereof shall be as follows:

All that part of Bowie County, Texas, described by metes and bounds as follows, to-wit:

BEGINNING at the S. E. Corner of the Collin McKinney Headright Survey, Bowie County, Texas;

THENCE West, following the South line of said survey 1450 feet;

THENCE North, on a line parallel to and 1450 West of the East line of the Collin McKinney HRS a distance of 3658 feet;

THENCE West 3507.6 feet, more or less, to the East line of the Mary Morris HRS;

THENCE South 2712.0 feet, along the East line of the Mary Morris HRS to the Southeast corner of said Mary Morris HRS;

THENCE West, 4777.8 feet, more or less, along the South line of the Mary Morris HRS to the Southwest corner of said Mary Morris HRS;

THENCE North, 3485 feet, along the West line of the Mary Morris HRS to a point; on the East line of the John Barkman HRS and being a point on the West line of Mary Morris HRS;

THENCE West, 3627.7 feet, inside the John Barkman HRS;

THENCE South, 2108.2 feet;

THENCE West, 3291.7 feet;

THENCE North, 3144.4 feet;

THENCE West, 2950.6 feet;

THENCE North, 2120.8 feet;

THENCE East, 9870.0 feet;

THENCE North, 2613.6 feet, more or less, to the S. W. Corner of the Wm. C. McKinney HRS;

THENCE East 4777.8 feet, more or less, to the S. E. Corner of the Wm. C. McKinney HRS;

THENCE North, 793 feet, more or less, along the East line of the Wm. C. McKinney HRS to a point; being also a point on the West line of the Collin McKinney HRS;

THENCE East, in the Collin McKinney HRS 2627 feet, more or less, to a point in a public road;

THENCE North 9 degrees 02 minutes West, 1079 feet, following the center line of the public road, to an angle point;

THENCE North, following the center line of the public road, 4450 feet to a point;

THENCE East, 2500 feet, more or less, to a point on the East line of the Collin McKinney HRS;

THENCE South, 4110 feet along the East line of the Collin McKinney HRS to a point; being also a point on the West line of the Ashley McKinney HRS;

THENCE East 4550 feet, more or less, crossing the Ashley McKinney HRS to the East line thereof; being a point in a public road;

THENCE South, along the public road, following the East line of the Ashley McKinney HRS, 8733 feet, to a point that bears 4764.7 feet north of the southeast corner of said Ashley McKinney HRS;

THENCE West, 4550 feet, more or less, crossing the Ashley McKinney HRS to the West line thereof, being also a point on the East line of the Collin McKinney HRS;

THENCE South 3667 feet, more or less, following the East line of the Collin McKinney HRS to the Southeast corner thereof, being the point of Beginning.

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(b) Such district shall be and is hereby declared to be a governmental agency and a body politic and corporate with the power of governing and with the authority to exercise the rights, privileges and functions hereinafter specified. The creation of such district is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article XVI of the Constitution of Texas (to the extent hereinafter authorized) for the control, storing, preservation and distribution of the waters of Barkman Creek, its tributaries, and the water of streams which may be transferred from other watersheds into the Barkman Creek watershed, for domestic, municipal, industrial, flood control, power, and other useful purposes, including the collection, treatment and disposal of industrial or commercial wastes, whether fluids, solids or composites.

(c) The district shall have no power to levy or collect taxes or assessments, or to issue any bonds or create any indebtedness payable out of taxes or assessments, or in any other way pledge the credit of the state, and nothing in this Act or any other Act or law shall be construed as authorizing it to do so.

#### Sec. 2. Board of Directors.

(a) The management and control of all the affairs of such district shall be vested in a board of five (5) directors. Each director shall serve for a term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in Bowie County, Texas. Such directors shall subscribe to the Constitutional Oath of Office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000.) for the faithful performance of his duties, the cost of which shall be paid by the district. A majority shall constitute a quorum.

(b) Immediately after the Act becomes effective, the following named persons, all being residents of Bowie County, Texas, shall be directors of said district and shall constitute its Board of Directors: 1. Joe Smith, 2. Weldon Ames, 3. Josh R. Morriss, Sr., 4. Lee Davis, and 5. Willard Simmons. If any of the aforementioned persons shall die, become incapacitated, or otherwise not be qualified to assume his duties under this Act, the remaining directors shall appoint his successors. Succeeding directors shall be appointed as provided for in this Act.

(c) The first two named directors in Section 2(b) above shall serve for a period of one (1) year from the date of their qualification, and the following three named directors shall serve for a full term of two (2) years from the date of their qualification. Upon the expiration of the respective terms of said directors named herein, their successors, and each of them, shall be appointed to serve for a term of two (2) years. All vacancies occurring in the board of directors, except vacancies for an unexpired term, shall be filled by appointment by the State Board of Water Engineers. Any vacancy for an unexpired term shall be filled for such unexpired term by majority vote of the remaining directors.

(d) The board of directors shall elect from its number a president, a vice-president of the district, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the district and the presiding officer of the board. He shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all power conferred by the Act upon the president when the president is absent or fails or declines to act. The board shall also appoint a secretary and a treasurer, who may or may not be members of the board, and it may combine those offices. The treasur-

er shall give bond in such amount as may be required by the board of directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the district.

(e) The directors shall receive as fees of office a sum not to exceed Ten Dollars (\$10.00) per day for each day of service necessary to the discharge of their duties, provided such service is authorized by vote of the board of directors. They shall file with the secretary a verified statement showing the actual number of days of service each month on the last day of the month, or as soon thereafter as possible and before a warrant shall be issued therefor.

Sec. 3. The legal domicile of the district shall be Texarkana, Bowie County, Texas, where it shall maintain its principal office.

Sec. 4. The district may sue and be sued in its corporate name.

Sec. 5. District Powers.

In addition to those herein otherwise mentioned, the district shall be and is hereby authorized to exercise the following powers, rights, privileges and functions and such other powers, rights, privileges and functions as are necessary to carry out the purposes of this Act, to-wit:

(a) Adopt, use and alter a corporate seal;

(b) Make by-laws for the management and regulation of the district affairs;

(c) Appoint officers, attorneys, agents and employees, prescribe their duties and fix their compensation;

(d) Prevent or aid in the prevention of damage to person or property from the waters of Barkman Creek and Red River and their tributaries in Bowie County, Texas;

(e) To prevent or aid in the prevention of soil erosion and floods within the watershed of Barkman Creek;

(f) To control, store and preserve the waters of Barkman Creek and its tributaries, and water transferred to the Barkman Creek watershed from any other stream, for any useful purpose, and to use, distribute and subject to the provisions of Subdivision (n) of this Section sell said water within or without the boundaries of the district upon such terms and conditions as the district may agree upon. The district is also empowered to acquire by any method in this Act authorized, and to construct and operate, or contract for the operation of, retaining and settling ponds, and all facilities and equipment necessary for relieving or minimizing waste and pollution of water before it reaches any public stream;

(g) To, within and without the district, construct, improve, maintain and reconstruct, and to use and operate, and contract for the operation of any and all dams, reservoirs, dykes, pumps, pipelines, electric service poles and lines, and any other facilities deemed by the district to be necessary to the carrying on of the business of the district;

(h) To acquire by purchase, lease, gift, or in any manner (otherwise than by condemnation), and to maintain, use and operate, any and all property of any kind, real, personal or mixed, and easements thereon and thereover, or any interest therein located anywhere within or without the boundaries of the district, necessary to the exercise of the powers, rights, privileges and functions possessed by the district;

(i) To acquire by condemnation in fee simple any and all property of any kind, real, personal or mixed, or any interest therein and any ease-

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ments thereon, within or without the boundaries of the district necessary to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, in the manner provided by Title 52 of the Revised Civil Statutes of the State of Texas, 1925, as amended, or, at the option of the district, in the manner provided by the Statutes of Texas relative to condemnation by districts organized under General Law pursuant to Section 59 of Article XVI of the Constitution of the State of Texas, as the district may elect; provided that no property located outside Bowie County, Texas, may be acquired by condemnation under the provisions of this Subdivision (i) of this Section. The amount of and character of interest in property and easements thus to be acquired shall be determined by the Board;

(j) Subject to the provisions of this Act from time to time sell or otherwise dispose of any property of any kind, real, personal or mixed, or any interest therein or any easement thereon, which shall not be deemed by the district necessary to the carrying on of the business of the district;

(k) To enter upon the lands of another or others for the purpose of making such survey or surveys as the district may determine or deem necessary to carrying on the business of the district, and no person doing such surveying for or at the instance of the district shall be guilty of any manner of trespass. Any person who knowingly interferes with such survey or surveys shall be guilty of a misdemeanor, and upon conviction may be fined in a sum not exceeding the sum of Two Hundred Dollars (\$200), and each act of interference shall constitute a separate offense;

(l) To make inter-basin transfers of raw, treated or waste waters between Barkman Creek and Red River and the watersheds thereof in Bowie County, Texas;

(m) To accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and in connection with such grant, to enter into such arrangement with the United States of America, or such corporation or agency as the district may deem advisable; but any rights of the United States under any such arrangements shall be subordinate to the rights of the holders of any bonds issued pursuant to this Act;

(n) To enter into written contracts upon such terms as the district may agree upon with cities, towns, villages, firms, persons and corporations to supply water to and to dispose of waste for them, each respectively, upon a month to month basis, and/or for a fixed period of years, with the option to renew and extend such contract or contracts for an additional like or lesser term; and the district may by such contract or contracts grant to any such user or users of water, priority thereto on the basis that the first in time is the first in right, and that such district shall not thereafter contract to furnish water to another unless such district has a supply of water not contracted to others and available for use, nor to dispose of waste for another unless its facilities are adequate to handle and dispose of such additional waste. And said district may also by contract provide that if and when such priority or priorities are granted, those to whom such priority or priorities are granted shall have and may enforce such priorities in accordance with the contract, any other law to the contrary notwithstanding; and that when such priorities have been granted, the date as of which they shall be determined will be the date of the first or original contract, even though such contract should thereafter be amended or revised, or renewed under an option to extend such contract for an additional fixed term;

(o) Any contract authorized in Subdivision (n) of this Section shall be in writing, executed and acknowledged as is required of deeds for the

conveyance of real estate in Texas; and if such contracts are in writing, executed and acknowledged as in this Subdivision required, they may be recorded in the Deed Records of Bowie County, Texas, and their recording shall be and constitute notice thereof and of the rights thereunder;

(p) In the event of a shortage of water or inadequacy of waste disposal facilities, and without liability for damages on account thereof, the district shall discontinue the furnishing of water and disposal of waste in the inverse order of the dates of such contracts so long as such shortage or inadequacy shall continue;

(q) To make and enter into all other contracts, and to execute instruments necessary to the exercise of the powers, rights, privileges and functions conferred upon said district by this Act.

(r) 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, lowering, rerouting, 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.

Sec. 6. (a) For the purpose of providing a source of water supply, and waste disposal and facilities, for cities and other users for municipal, domestic and industrial purposes, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the district is empowered to issue its negotiable bonds payable solely from and out of revenues of the district, as are pledged by resolution of the board of directors of said district. Pending the issuance of definite bonds, the board may authorize the delivery of negotiable interim bonds or notes, eligible for exchange or substitution by use of the definitive bonds.

(b) Such bonds shall be authorized by resolution of the board of directors and shall be issued in the name of the district, signed by the president or vice-president, attested by the secretary, and have the seal of the district impressed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the board of directors to be the most advantageous reasonably obtainable, provided that the interest cost to the district calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six and one-half percent (6½%) per annum, and within the discretion of the board may be made callable prior to maturity, at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series, and from time to time as required for carrying out the purposes of this Act.

(d) The bonds shall be secured by a pledge of all or part of the net revenues of the district, or by the net revenues of any one or more contracts theretofore or thereafter made, or other revenues specified by the resolution of the board of directors. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which



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may be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the district after deduction of the amount necessary to pay the cost of maintaining, improving and operating the district and its properties.

(e) It shall be the duty of the board of directors to fix, and from time to time revise, the rates of compensation for water sold and disposal and other services rendered by the district which will be sufficient to pay the expense of operating, maintaining, and improving the facilities of the district, and to pay the bonds as they mature, and the interest as it accrues, and to maintain the reserve and other funds as provided in the resolution of the board authorizing the issuance of such bonds. Provided, however, that any contract for the sale of water or for rendering disposal and other services, or both, may provide the extent and circumstances under which the rates of compensation shall be revised, in which event the first sentence of this Subsection shall not apply to such contract.

(f) From the proceeds from the sale of the bonds, the district may set aside an amount for the payment of interest expected to accrue during construction, and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the issuance of such bonds. Proceeds from the sale of the bonds may also be used for the acquisition of property, real, personal and mixed, construction of dams, dykes, pumps, pipelines, electric service poles and lines, disposal lines, settling basins and other waste disposal facilities, and for the payment of all other expenses necessarily incurred in accomplishing the purposes for which this district is created, including the expenses of the issuance and sale of such bonds.

(g) In the event of a default or a threatened default in the payment of principal or interest on bonds, any court of competent jurisdiction may, upon a petition of the holders of twenty-five percent (25%) or more of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the district, employ and discharge agents and employees of the district, take charge of funds on hand, and manage the proprietary affairs of the district, without consent or hindrance by the board of directors. Such receiver may also be authorized by the court to sell or make contracts for the sale of water or water disposal service, or renew such contracts with the approval of the court appointing him. The court in such circumstances may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of such bonds.

(h) The district is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act, as well as the interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this Act with reference to the issuance by the district of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Texas Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu thereof the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and

the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

(i) After any bonds (including refunding bonds) are authorized by the district, such bonds and the record relating to their issuance, shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the district and any city or governmental agency, a copy of such contract and the proceedings of the city or governmental agency authorizing such contract shall all be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and Laws of the State of Texas, the Attorney General shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts of the State of Texas. Thereafter the bonds and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

(j) The board of directors shall designate one or more banks to serve as depository for its funds. All funds of the district shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement. To the extent that funds in the depository banks and the trustee bank are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(k) All bonds of the district shall be and are hereby declared to be legal and authorized investments for public funds of counties, cities, towns, school districts, improvement districts, banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, administrators, executors, guardians and trustees of estates. Such bonds shall also 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by unmatured coupons appurtenant thereto.

(l) The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their properties and industries, the district, in carrying out the purposes of this Act, will be performing an essential public function under the Constitution of Texas, and said district shall not be required to pay any ad valorem or other tax or assessment on the project or any part thereof, or any properties owned by said district; and the bonds issued hereunder, and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 7. The district shall have exclusive power to fix rates and charges, and to determine the terms and conditions of contracts for water and/or disposal of waste. The rates and charges for water and waste disposal shall never be substantially more than sufficient to retire its indebtedness, and to maintain the reserve prescribed in the resolution authorizing such indebtedness, and to pay the costs of improvements, expansions, operation and administration of such district.

Sec. 8. The district is authorized to obtain permits for the appropriation of waters from Barkman Creek and Red River, or their tributaries,

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either directly from the Texas Board of Water Engineers, or by transfers from holders of such permits.

Sec. 9. The district shall not be required to give a cost of supersedeas bond, or to pay a cost deposit on any appeal from the judgment of any court of this state.

Sec. 10. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas, wherein it is empowered to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the state; that the district herein created is essential to the accomplishment of the purposes of said constitutional provision; and that this Act operates on a subject in which the state at large is interested. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth. Acts 1961, 57th Leg., p. 217, ch. 114.

Emergency. Effective May 10, 1961.

#### Art. 8280—246. El Lago Municipal Utility District

Section 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 in Brazoria County, Texas, to be known as "El Lago Municipal Utility District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

Said District is comprised of 162.43 acres of land, more or less, out of the 563.5 acre tract of land in the J. E. Groce League, Abstract No. 66, conveyed to J. R. Gayle, Jr. by J. W. Ragsdale by deed dated July 2, 1943, and recorded in Volume 366, Page 637, of the Deed Records of Brazoria County, Texas. Said 162.43 acres is located East of State Highway No. 288 and is more particularly described as follows, to-wit:

Beginning at a point in the North line of said J. E. Groce League, Abstract No. 66, said point being East 3061.19 feet, measured along said North line of said J. E. Groce League, from the East right-of-way of said State Highway No. 288 and being the Northeast corner of said 563.5 acre tract;

Thence South along the east line of said 563.5 acre tract a distance of 2,566.57 feet to a stake for corner;

Thence West, parallel to the North line of said J. E. Groce League, a distance of 2,474.09 feet to a stake for corner in the East right-of-way line of said State Highway No. 288;

Thence N 12° 56' W, along said East right-of-way line of said highway a distance of 2,623.12 feet to a point for corner in the North line of said J. E. Groce League;

Thence East along said North line of said J. E. Groce League a distance of 3,061.19 feet to the aforementioned Northeast corner of said 563.5 acre tract conveyed to J. R. Gayle, Jr. by J. W. Ragsdale, the place of beginning.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 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 the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941 (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), even though said District is located within a county of less than five hundred thousand (500,000) inhabitants, and including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); and it is further provided, that the District shall be subject to, and have the powers granted by, Chapter 128, Acts of the 50th Legislature of Texas, Regular Session, 1947, as the same is now, or hereafter may be amended. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall also have the power to make, construct, or otherwise acquire improvements within the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws. 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, lowering, rerouting, 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.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first board of supervisors shall be P. W. Lorraine, C. D. Blanchard, J. P. Westmoreland, Randolph R. Brantley, and Sam Plummer. Said members shall become supervisors immediately after this Act becomes effective, and said first board of supervisors shall meet and organize within ninety (90) days after the effective date of this Act, and shall within such time file their official bonds. If any of the aforementioned members of said first board of supervisors should die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Brazoria County, Texas, shall appoint his or their successors. With the exception of said first board of supervisors, the board of supervisors shall be selected by General Law for fresh water supply districts. The first election of supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, the supervisors of the District shall be

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chosen, and elections for the supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the board of supervisors for a term not to exceed the term of office of the members of the board making such appointment, and further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are, and will be benefited by the creation of the District and 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. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein are, and will be benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Nothing in this Act shall be construed as extending the power of eminent domain outside the boundaries of the district created hereby. Acts 1961, 57th Leg., p. 320, ch. 171.

Emergency. Effective May 17, 1961.

#### Art. 8280—247. Glenwood Bayou Municipal Utility District

Section 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 in Brazoria County, Texas, to be known as "Glenwood Bayou Municipal Utility District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at a point which is approximately 15,000 feet South of and 7,000 West of the Northeast corner of the Jared E. Groce Survey, Abstract No. 66, said point being the Northeast corner of the Mrs. Belle Wisdom 215 Acre tract, same being the Northwest corner of the Texas Company 90 Acre tract and the Southwest corner of the A. B. Mayes, et al., 75 Acre tract;

THENCE South along the East line of the Mrs. Belle Wisdom 215 Acre tract, same being the West line of the Texas Company 90 Acre tract, to the most easterly Southeast corner of the said Mrs. Belle Wisdom 215 Acre tract, same being the Southwest corner of the Texas Company 90 Acre tract, and also being a point in the North line of the T. S. Rowe 100 Acre tract;

THENCE West along a South line of the Mrs. Belle Wisdom 215 Acre tract, same being the North line of the T. S. Rowe 100 Acre tract to an inside corner of the said Mrs. Belle Wisdom 215 Acre tract and being also the Northwest corner of the T. S. Rowe 100 Acre tract;

THENCE South along the East line of the Mrs. Belle Wisdom 215 Acre tract, same being the West line of the T. S. Rowe 100 Acre tract, to the most Southerly Southeast corner of the Mrs. Belle Wisdom 215

Acre tract on the North bank of Oyster Bayou, same being also the Southwest corner of the T. S. Rowe 100 Acre tract;

THENCE in a generally Westerly direction along the meanders of the North bank of Oyster Bayou, being the South line of the Mrs. Belle Wisdom 215 Acre tract, to the Southwest corner of the said Mrs. Belle Wisdom 215 Acre tract on the North bank of Oyster Bayou, same being also the Southeast corner of the Betty Gordon 1,065 Acre tract;

THENCE North along the West line of the Mrs. Belle Wisdom 215 Acre tract, same being the East line of the Betty Gordon 1,065 Acre tract, to the Northwest corner of the Mrs. Belle Wisdom 215 Acre tract;

THENCE continuing North a distance of 400 feet, more or less, along the East line of the Betty Gordon 1,065 Acre tract, same being also the West line of the H. L. Ottenjohn 95.8 Acre tract, to a point for corner on the South bank of Bastrop Bayou;

THENCE Easterly parallel to and 400 feet, more or less, North of the North line of the Mrs. Belle Wisdom 215 Acre tract a distance of 1,950 feet, more or less, to a point for corner in the East line of the H. L. Ottenjohn 95.8 Acre tract, same being in the West line of the A. B. Mayes, et al., 75 Acre tract;

THENCE South along the East line of the H. L. Ottenjohn 95.8 Acre tract, same being the West line of the A. B. Mayes, et al., 75 Acre tract to the Northeast corner of the Mrs. Belle Wisdom 215 Acre tract, the POINT OF BEGINNING.

Said District contains 230 Acres or 0.35 square miles of land, more or less, lies wholly within the Jared E. Groce Survey, Abstract No. 66, Brazoria County, Texas, and comprises all the Glenwood Bayou Subdivision as recorded in Volume 718, page 195 of the Deed Records of Brazoria County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 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 the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941 (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), even though said District is located within a county of less than five hundred thousand (500,000) inhabitants, and including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); and it is further provided, that the District shall be subject to, and have the powers granted by, Chapter 128, Acts of the 50th Legislature of Texas, Regular Session, 1947, as the same is now, or hereafter may be amended. Said District shall also have the power to reclaim and drain its overflowed

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lands and other lands needing drainage. Said District shall also have the power to make, construct, or otherwise acquire improvements within the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws. 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, lowering, rerouting, 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.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 123, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first board of supervisors shall be Robert Pine, George Weaver, Raymond Parsley, Cyril McClure, and Betty Pine. Said members shall become supervisors immediately after this Act becomes effective, and said first board of supervisors shall meet and organize within ninety (90) days after the effective date of this Act, and shall within such time file their official bonds. If any of the aforementioned members of said first board of supervisors should die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Brazoria County, Texas, shall appoint his or their successors. With the exception of said first board of supervisors, the board of supervisors shall be selected by General Law for fresh water supply districts. The first election of supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, supervisors of the District shall be chosen, and elections for supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the board of supervisors for a term not to exceed the term of office of the members of the board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are, and will be benefited by the creation of the District and 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. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein is, and will be benefited thereby, and

by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Nothing in this Act shall be construed as extending the power of eminent domain outside the boundaries of the district created hereby. Acts 1961, 57th Leg., p. 324, ch. 173.

Emergency. Effective May 17, 1961.

Art. 8280—248. Logan Slough Creek Improvement District

Section 1. By virtue of Article XVI, Section 59, of the Texas Constitution, there is hereby created a district to be known as "Logan-Slough Creek Improvement District," (hereinafter called "District") which shall be a governmental agency and a body politic and corporate.

Sec. 2. The District shall contain the territory situated, lying, and being in the State of Texas, County of Lamar, described as follows:

BEGINNING at the NE corner of the George Garrett 312.5 acre tract of land in the Wm. Kennedy Survey, said beginning point being on the South Bank of Red River;

THENCE South with the EB line of said George Garrett tract of land to its SE corner;

THENCE West with the SB line of the George Garrett land to its point of intersection with the EB line of the Harry Walker land;

THENCE South with the EB line of said Walker land 2500 feet, more or less, to its point of intersection with the NB line of the A. L. Debusk 77 acre tract of land;

THENCE West with the NB line of the A. L. Debusk land 1200 feet, more or less, to its NW corner;

THENCE South with the WB line of the Debusk land 1600 feet, more or less, to its point of intersection with Farm-to-Market Road No. 197;

THENCE South across said road to the NE corner of the Harry Walker 10 acre tract of land South and adjacent to the said Farm-to-Market Road No. 197;

THENCE South with the EB line of said Harry Walker 10 acre tract of land 1000 feet, more or less, to its SE corner and the most NE corner of the T. M. Kilgore 115 acre tract of land;

THENCE South with the EB line of said Kilgore tract of land 1900 feet, more or less, to its SE corner and the N. E. corner of the E. T. Moore 80 acre tract of land;

THENCE South with the EB line of said E. T. Moore 80 acre tract of land 1900 feet, more or less, to its S. E. corner;

THENCE West with the S. B. line of said Moore 80 acre tract of land 2100 feet, more or less, to the SE corner of the J. N. Parsons 212 acre tract of land;

THENCE West 2650 feet, more or less, with the SB line of said J. N. Parsons tract of land to its SW corner;

THENCE North with the WB line of said J. N. Parsons tract of land 600 feet, more or less, to the SE corner of the Leon Parson 200 acre tract of land in the Stevens Survey;

THENCE West with the SB line of said Leon Parson tract of land 3000 feet, more or less, to its intersection with Farm-to-Market Road No. 79;

THENCE West across said road to the SE corner of the Leon Parson 150 acre tract of land;



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THENCE West with the SB line of said Parson 150 acre tract of land 5450 feet, more or less, to its intersection with the North-South boundary line of the Mildred B. Stephens 105 acre tract of land;

THENCE South 1400 feet, more or less, to the SE corner of said Mildred Stephens land;

THENCE West with the SB line of said Mildred Stephens land 1300 feet to its SW corner;

THENCE North with the WB line of said Mildred Stephens land 1600 feet to the SE corner of the Roy Smith 70 acre tract of land;

THENCE West with the SB line of said Roy Smith land 1350 feet, more or less, to its SW corner and intersection of county road;

THENCE North with the EB line of said county road 3900 feet, more or less, to its intersection with Farm-to-Market Road No. 79;

THENCE West with the SB line of said farm-to-market road 500 feet, more or less;

THENCE North across said farm-to-market road and with the W. B. line of the Emogene Cass 28 acre tract of land 2500 feet, more or less, to the NW corner of said Emogene Cass land;

THENCE West 250 feet to the county road and the SW corner of the Joe Shannon 60 acre tract of land;

THENCE in a Northeasterly direction with said county road 2700 feet, more or less;

THENCE East with the SB line of said county road 700 feet, more or less;

THENCE North with said county road and the WB line of the Felix Morris land 7100 feet, more or less, to the NW corner of said Morris land;

THENCE East with the NB line of said Felix Morris land 1400 feet, more or less, to its NE corner and the intersection of the WB line of the Leon Parson 248 acre tract of land;

THENCE North 2250 feet, more or less, to the South bank of Red River;

THENCE East with the South bank of Red River 3.4 miles, more or less, to the place of beginning.

Sec. 3. (a) All power of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he is a resident citizen of the State of Texas and owns taxable property in the District. No member of a governing body of any county, city or town, and no employee of a county, city or town shall be a Director. Such Directors shall subscribe to the Constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective the following named persons shall be the Directors of said District and shall constitute the Board of Directors of said District;

E. A. Hysaw

Leon Parson

George O'Connor

B. R. Stephens

Roy Smith, all land owners within said District.

If any of the aforementioned persons shall die, become incapacitated, or otherwise not be qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act.

(c) The first two (2) named Directors in Section 3(b) above shall serve until the first Tuesday in April, 1962, and the following three (3) named Directors shall serve until the first Tuesday in April, 1963. An election for the election of Directors shall be held on the first Tuesday in April of each year, beginning in 1962, and as herein provided. Two (2) Directors shall be elected in each even-numbered year and three (3) in each odd-numbered year. The yearly election shall be ordered by the Board of Directors. Notice of the election shall be published in a newspaper of general circulation in said District one (1) time at least thirty (30) days before the election. The election order shall state the time, place and purpose of the election, and the Board of Directors of said District shall appoint a presiding judge, who shall appoint an assistant judge and two (2) clerks to assist in holding the election. Only qualified voters under the laws of the State of Texas who reside in or own property in the District shall be entitled to vote at said election. The candidates receiving the highest number of votes shall be declared elected. The returns of the election shall be made to and canvassed by the Board of Directors of said District, who shall enter an order declaring the results of the election.

(d) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than three (3) residents of the District who are qualified to vote at the election. Such petition shall be presented to the secretary of the Board of Directors. The petition shall be presented on such date as will allow not less than ten (10) full days between the dates of presentation and the date of election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by majority vote of the remaining Directors.

(f) Each Director shall receive reimbursement for actual expenses incurred in attending to District business, provided such service and expense are expressly approved by the Board.

Sec. 4. The Board of Directors shall elect from its number a president and vice president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer, who may or may not be members of the Board, and it may combine those officers. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the District.

Sec. 5. The District is hereby empowered to control, store and preserve the waters and floodwaters within the District for the conservation, preservation, reclamation and improvement of the soil and lands or in aid thereof within the District; to carry out flood prevention measures

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to prevent or aid in the prevention of damage to land and soil and the fertility thereof; to engage in land treatment measures to prevent deterioration, erosion and loss of land and soil; to carry out preventive and control measures within the District; to construct, acquire, improve, carry out, maintain, repair and operate dams, structures, projects, and works of improvement for flood prevention (including structural and land treatment measures) and for agricultural phases of the conservation, development, utilization, and disposal of water within the District and to purchase or acquire other facilities and equipment necessary or useful in connection therewith and to engage in activities necessary or convenient to carry out these functions; to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein within the District necessary to carry out the purposes of this Act and to maintain, administer, and improve any properties acquired; to purchase or acquire land, easements or rights-of-way within the District necessary to carry out the purpose of this Act; to cooperate with other conservation districts, county officials, conservation officials and personnel of the county, State and Federal Government, State Soil Conservation Board, State Agricultural Department, Secretary of Agriculture of the United States, and other county, State and Federal agencies and departments in order to carry out the purpose of this Act.

Sec. 6. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land, rights-of-way and easements only within Lamar County by condemnation in the manner provided by Title 52, Revised Civil Statutes of Texas, as amended, relating to eminent domain. The amount of and character of interest on land and easements thus to be acquired shall be determined by the Board of Directors. 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, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. In the use of the powers of eminent domain against persons, firms and corporations or receivers or trustees thereof who have the power of eminent domain, the fee title may not be condemned, but the District may condemn only an easement.

Sec. 7. Any construction contract or contract for the purchase of materials, equipment or supplies requiring an expenditure of more than Five Thousand Dollars (\$5,000) shall be made to the lowest and best bidder after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper of general circulation within said District and designated by the Board of Directors.

Sec. 8. The District shall be empowered to cooperate with the Federal Government, its agencies and departments and representatives thereof in getting assistance, help, aid, benefits, grants, credit and money as provided in Public Law 566, 83rd Congress, Chapter 656, 2nd Session, H.R. 6788. It is the intention of the Legislature to create the District with all the powers and authority necessary to fully qualify and gain the

full benefits of said Public Law. The provisions of said Public Law that are applicable to the District are hereby enacted into this law by reference and made applicable to the District.

Sec. 9. The District in cooperating with the Federal Government shall:

(1) Acquire without cost to the Federal Government such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance;

(2) Assume such proportionate share of the cost of installing any works of improvement involving Federal assistance as may be determined by the Secretary of Agriculture of the United States to be equitable in consideration of anticipated benefits from such improvements; provided that no part of the construction cost for providing any capacity in structures for purposes other than flood prevention and features related thereto shall be borne by the Federal Government under the provisions of Public Law 566, 83rd Congress, Chapter 656, 2nd Session, H.R. 6788;<sup>1</sup>

<sup>1</sup> 16 U.S.C.A. § 1001 et seq.

(3) Make arrangements satisfactory to the Secretary of Agriculture of the United States for defraying costs of operating and maintaining such works of improvements, in accordance with regulations presented by the Secretary of Agriculture;

(4) Acquire, or provide assurance that land-owners have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement;

(5) Obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than fifty per cent (50%) of the lands situated in the drainage area above each retention reservoir to be installed with Federal assistance.

Sec. 10. For the purpose of providing dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures), and for agricultural phases of conservation, development and utilization and disposal of water, and for other necessary facilities and equipment in connection therewith, and for the improvement, maintenance, repair and operation of same, and for carrying out any other powers or authority conferred by this Act, and for the purpose of paying attorneys' fees, fiscal agents' fees, engineers' fees, and cost of printing and issuing bonds, the District is empowered to issue negotiable bonds payable from ad valorem taxes to be levied on all taxable property within the District. It shall be the duty of the Board of Directors to levy a tax sufficient to pay the bonds and interest thereon as such bonds and interest become due.

Sec. 11. No bonds, except refunding bonds, shall be issued unless authorized at an election at which only the qualified voters who reside in the District, and who own taxable property therein, and who have duly rendered the same for taxation, shall be qualified to vote, and unless a majority of the votes cast at said election is in favor of the issuance of the bonds. Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. The returns of the election

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

shall be made to and canvassed by the Board of Directors of the District. The General Laws relating to elections shall be applicable to elections held under this section of the law, except as otherwise provided in this law.

Sec. 12. Such bonds shall be authorized by resolution of the Board of Directors, after having been authorized as provided in Section 11 hereof, and shall be issued in the name of the District, signed by the president or vice president, attested by the secretary, and have the seal of the District impressed thereon or a facsimile of the seal printed or lithographed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and, within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registerable<sup>1</sup> as to principal or as to both principal and interest. Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act. From proceeds from the sale of the bonds, the District may set aside an amount for the payment of interest to accrue during construction and one (1) year thereafter. Proceeds from the sale of the bonds may also be used for the payment of all expenses incurred in accomplishing the purposes for which this District is created, including but not limited to the payment of attorneys' fees, fiscal agents' fees, engineers' fees, and to pay the cost of printing and issuing the bonds.

<sup>1</sup> So in enrolled bill.

Sec. 13. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act, and interest thereon, without an election. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable by 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 resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 14. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. If such bonds have been authorized in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds shall be valid and binding and shall be incontestable for any cause.

Sec. 15. The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds shall be remitted to the bank or banks of payment of principal of and interest on bonds. To the extent that funds in the depository bank

or banks and the bank or banks of payment are not insured by the Federal Deposit Insurance Corporation they shall be secured in the manner provided by law for the security of county funds. Before designating a depository bank or banks the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks to submit applications to be designated depositories. The terms of service for depositories shall be prescribed by the Board. Such notice shall be published one (1) time in a newspaper of general circulation within said District and specified by the Board at least ten (10) days before the date set for receiving applications. At the time mentioned in the notice the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and are in condition to warrant handling of the District funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository. If no application is received by the time stated in the notice, or if no application is accepted, the Board shall designate some bank or banks within or without Lamar County, upon such terms and conditions as it may find advantageous to the District.

Sec. 16. All bonds (including refunding 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, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the 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 appurtenant thereto.

Sec. 17. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 18. The District is authorized to acquire water appropriation permits, permits for dams and structures and dam sites, and other necessary permits from the Board of Water Engineers of the State of Texas or other State or Federal boards, commissions, agencies or departments for the purpose of carrying out the purposes of this Act.

Sec. 19. The District shall have all and singular the powers, duties and functions, and shall observe procedures, insofar as the same may be applicable and practicable, to collect taxes, on an ad valorem basis, as is provided for by Chapter 25 of the General Laws of the Thirty-ninth Legislature, Regular Session, and the several amendments thereof, including but not limited to the following: to provide for a tax assessor and collector; to determine property subject to taxation; to provide for rendi-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

tion of taxable property; to provide for a taxpayer's oath; to provide for verification by tax assessor and collector of property rendered; to provide for penalties for making false oaths; to provide for a date for rendition of property; to provide for a Board of Equalization; to provide for an oath for the Board of Equalization; to provide when the Board of Equalization shall convene; to provide for the Board of Equalization to examine assessment lists; to provide who may file complaints; to provide for a notice of hearing and hearing for protests; to provide for duplicate tax rolls; to provide for books of account and an audit; to provide when taxes are due and payable; to provide for delinquent taxes, collection, and sale of property; to provide that taxes are not barred by any law of limitations and no law providing for a period of limitations as to debts or actions shall apply to such taxes; to provide for penalties and interest; to provide for publication of delinquent tax roll; to provide for attorney to bring suit for delinquent taxes; to provide for redemption of delinquent property; and to provide for anything necessary for the accomplishment of the foregoing and to carry out the purposes of this Act.

Sec. 20. It is hereby found and determined that all the lands included within the boundaries of the District will be benefited and that the District is created to serve a public use and benefit. No election shall be necessary for the purpose of confirming its organization and no hearing shall be held to determine whether any lands included within its boundaries shall be excluded. Acts 1961, 57th Leg., p. 333, ch. 179.

Emergency. Effective May 17, 1961.

#### Art. 8280—249. Brookshire-Katy Drainage District

Section 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 in Waller County, Texas, to be known as "Brookshire-Katy Drainage District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the most South Easterly corner of Waller County, Texas, same being a common corner of Waller, Fort Bend and Harris Counties;

THENCE Southwesterly, along the common line of Waller and Fort Bend Counties, to the Southeast corner of the Wm. Cooper League, Abstract 20, for a corner;

THENCE Westerly, continuing along the common line of Waller and Fort Bend Counties, to a point in the South line of the Wm. Cooper League, Abstract 20, which point is the Northeast corner of the Randolph Foster Survey, Abstract 27, for a corner;

THENCE Southerly, continuing along the common line of Waller and Fort Bend Counties, to the intersection of the common County lines with the centerline of Bessie Creek, for a corner;

THENCE up the centerline of Bessie Creek, following its meanders in a generally North Northwesterly direction, to a point, same being the common corner on said centerline of said creek of the J. H. Jones 336.7 Acre Tract and the A. D. Bains 58 Acre Tract, in the Wm. Cooper League, Abstract 20, for a corner;

THENCE Northerly, along the common line of the said Jones and Bains Tracts, to a point in the Southeast line of the J. S. Dozier Estate 80 Acre Tract, for a corner;

THENCE Northeasterly, along the Southeast line of the said J. S. Dozier Estate 80 Acre Tract, to the most Easterly common corner of

said Dozier Estate Tract and the A. D. Bains 25.9 Acre Tract, for a corner;

THENCE Northwesterly, along the common line of said Dozier Estate and said Bains Tract to the centerline of Bessie Creek, for a corner;

THENCE up the centerline of Bessie Creek, following its meanders in a generally Northerly direction, to the intersection of the centerlines of Bessie Creek and Bell Bottom Creek, in the J. McFarland Survey, Abstract 46, for a corner;

THENCE up the centerline of Bell Bottom Creek, following its meanders in a generally Northerly direction, to the intersection of the centerline of Bell Bottom Creek and the Northeast line of the Samuel Hady Survey, Abstract 31, for a corner;

THENCE Southeasterly, along the Northeast line of the Samuel Hady Survey, Abstract 31, to the West corner of the C. D. Mixon Survey, Abstract 226, same being the South corner of the Noel Mixon Survey, Abstract 225, for a corner;

THENCE Northeasterly, along the common line of the said C. D. Mixon and Noel Mixon Surveys to the North corner of the C. D. Mixon Survey, for a corner;

THENCE Southeasterly, along the Northeast line of the C. D. Mixon Survey, Abstract 226, to a point, same being the most Westerly Southwest corner of the J. G. Bennett Survey, Abstract 288, and the Southeast corner of H. & T.C.R.R. Co. Survey, Abstract 185, for a corner;

THENCE Northerly, along the West lines of the J. G. Bennett Survey, Abstract 288 and the W. McCutcheon Survey, Abstract 310, to the Northwest corner of the W. McCutcheon Survey, Abstract 310, for a corner;

THENCE Easterly, along the North line of the said W. McCutcheon Survey, Abstract 310, to the West line of the H. & T.C.R.R. Co. Survey, Abstract 143, for a corner;

THENCE Northerly, along the West line of the H. & T.C.R.R. Co. Survey, Abstract 143, and the West line W. McCutcheon Survey, Abstract 311, to the Northwest corner of the W. McCutcheon Survey, Abstract 311, for a corner;

THENCE Easterly, along the North lines of the W. McCutcheon Survey, Abstract 311, H. & T.C.R.R. Co. Survey, Abstract 150, J. M. Bennett Survey, Abstract 282, H. & T.C.R.R. Co. Survey, Abstract 164, J. H. Garrett Survey, Abstract 377, and the H. & T.C.R.R. Co. Abstract 199, to an intersection with the Waller-Harris County line, for a corner;

THENCE Southeasterly, along the Waller-Harris County line to the most Southeasterly corner of Waller County, Texas, the point and place of beginning and containing approximately 47,000 Acres.

Sec. 2. Said District shall be considered to be organized and existing for the sole purpose of the reclamation and drainage of its overflowed lands and other lands needing drainage, and to accomplish such purpose the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 incorporated with the same effect as if incorporated in full in this Act. Without limiting the generalization of the foregoing, it is ex-



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

pressly provided that all said powers now or hereafter conferred by such General Laws upon fresh water supply districts for the purpose of conserving, transporting and distributing fresh water are hereby specifically conferred upon this District for the purpose of reclaiming and draining its overflowed lands and other lands needing drainage. 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, re-routing 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, re-routing, 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, lowering, 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. The exercise of the power of eminent domain shall not extend beyond the boundaries of the authority, as defined herein.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be Arthur Robichaux, O. M. Pederson, Jr., Cecil M. Beckendorff, Joe K. Moore and William H. Moore. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as is practical after the effective date of this Act, and shall within such time file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the remaining members of the Board of Supervisors shall fill such vacancy by appointment and as provided by General Law for fresh water supply districts. Prior to the second Tuesday in January, 1962, the Board of Supervisors shall divide said District into five (5) areas, numbered one (1) to five (5), both inclusive, and assign one of their number to be the Supervisor for each said area. On said second Tuesday in January, 1962, the Board of Supervisors shall hold an election for the purpose of electing to the Board of Supervisors, a Supervisor for two (2) of said areas, which shall be designated by the Board of Supervisors after having been determined by lot. Each of said Supervisors shall be elected to a two-year term of office to commence the day following the date of his election. On the second Tuesday of January, 1963, a Supervisor to serve a two-year term of office commencing the day following his election shall be elected to the Board of Supervisors for each of the remaining three (3) areas and thereafter annual elections on the second Tuesday of each succeeding year shall be held in the same sequence and for the same term of office. Each candidate for Supervisor shall be designated on the official ballot according to the number of area in which he resides, and at Supervisors' elections each qualified voter in the District shall be entitled to vote on candidates from all five (5) areas. The candidate in each area respectively receiving the highest number of votes for Supervisor of such respective area shall be elected. Each such candidate must be more than twenty-one (21) years of age, must own land subject to taxation in said District and must be a resident of the area from which he seeks election.

Except as herein provided, the Board of Supervisors shall be selected as provided by General Law for fresh water supply districts, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925.

Sec. 4. The Assessor and Collector of taxes of Waller County shall, ex officio, be the Assessor and Collector of taxes for the District. The blanks used by the Assessor and Collector to accept rendition of property for taxation by the County shall be printed so as to show that the rendition of property situated in the District is also made for the benefit of the District. The property which is situated in the District shall be clearly indicated on the approved tax rolls in the office of the Assessor and Collector. The value of property situated in the District as equalized by the Board of Equalization of Waller County, finally approved by the Commissioners Court of Waller County and as extended on the approved tax rolls of Waller County shall constitute the assessed values of such property for purposes of District taxation. Within five (5) days after the approval of the report of the Board of Equalization by the Commissioners Court of the County, the Assessor and Collector of taxes shall certify to the District the total assessed valuation of property situated in the District according to such approved rolls.

Sec. 5. Taxes shall be levied and collected under the provisions of the General Laws applicable to fresh water districts, and when an election is required by the General Laws, before taxes may be levied, the District must hold an election. The total amount of taxes levied by the District for all purposes shall never in any one (1) year exceed thirty-five cents (35¢) on the one hundred dollar valuation of taxable property within the District. For his services rendered to the District in assessing and collecting taxes for the District, the Assessor and Collector shall be entitled to deduct from all taxes thus collected on the current year's tax rolls a sum as agreed upon by the Board of Supervisors, not to exceed the amount provided by the General Laws relative to the assessment, levy and collection of ad valorem taxes, and for the collection of delinquent taxes compensation in like manner to that which he receives in collecting delinquent State and County taxes, provided that no duplicated charge shall be made for costs of suit where a charge is made in reference to enforcement of State and County taxes.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and 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. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1961, 57th Leg., p. 402, ch. 203.

Emergency. Effective May 23, 1961.

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 8280—250. El Paso County Water Control and Improvement District—Westway**

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in El Paso County, Texas, to be known as "El Paso County Water Control and Improvement District-Westway," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area and being in El Paso County, Texas;

BEGINNING at an iron pipe marking the intersection of the north line of Laura E. Mundy Survey 231 and the easterly right-of-way line of U. S. Interstate Highway 10;

THENCE South for a distance of 1275.82 feet to a point lying in the easterly right-of-way line of U. S. Interstate Highway 10;

THENCE East along the centerline of Coach Road in the Westway Subdivision for a distance of 255.31 feet to a P. I. in said Coach Road;

THENCE South 62 deg. 40' East along the centerline of said Coach Road for a distance of 281.35 feet to a P. I. in said Coach Road;

THENCE South 40 deg. 25' East along the centerline of said Coach Road for a distance of 93.48 feet to a point lying in the centerline of said Coach Road;

THENCE North 49 deg. 35' East for a distance of 150.00 feet to the northernmost corner of Lot 10, Block 1, Westway Subdivision;

THENCE South 40 deg. 25' East along the rear lot line of said Block 1 of Westway Subdivision for a distance of 96.96 feet to the common rear corner of Lots 11 and 12, Block 1, Westway Subdivision;

THENCE South 86 deg. 04' 47" East along the rear lot line of said Block 1, Westway Subdivision for a distance of 276.56 feet to the common rear corner of Lots 15 and 16, Block 1, Westway Subdivision;

THENCE South 80 deg. 41' 39" East along the rear lot line of said Block 1 for a distance of 82.44 feet to the common rear corner of Lots 16 and 17, Block 1, Westway Subdivision;

THENCE South 69 deg. 55' 23" East along the rear lot line of said Block 1 for a distance of 82.44 feet to the common rear corner of lots 17 and 18, Block 1, Westway Subdivision;

THENCE South 59 deg. 09' 07" East along the rear lot line of said Block 1 for a distance of 82.44 feet to the easternmost corner of Lot 18, Block 1, Westway Subdivision;

THENCE South 48 deg. 55' East for a distance of 816.36 feet to a point;

THENCE South 29 deg. 05' West for a distance of 530.75 feet to the P. I. of the centerlines of DeAlva Drive and Lakewood Road in Westway Subdivision;

THENCE South 04 deg. 00' East along the centerline of DeAlva Drive for a distance of 140.08 feet to a point;

THENCE South 84 deg. 00' West along the rear lot line of Block 7, Westway Subdivision for a distance of 981.08 feet to a point lying in the west right-of-way line of Essex Drive in Westway Subdivision;

THENCE South along the west right-of-way line of said Essex Drive for a distance of 103.75 feet to the P. I. of the west right-of-way line of

Essex Drive and the north right-of-way line of Applewood Road in Westway Subdivision;

THENCE North 83 deg. 03' 31" West along the north right-of-way line of Applewood Road for a distance of 221.62 feet to the P. I. of the north right-of-way line of Applewood Road and the east right-of-way line of Kingsway Drive in Westway Subdivision;

THENCE South along the east right-of-way of said Kingsway Drive for a distance of 743.62 feet to the P. I. of the east right-of-way line of said Kingsway Drive and the north right-of-way line of Southwood Road in Westway Subdivision;

THENCE North 89 deg. 20.47" East along the north right-of-way line of Southwood Road for a distance of 123.23 feet to the common street corner of Lots 1 and 22, Block 11, Westway Subdivision;

THENCE North 10 deg. 42' 54" West along the rear lot line of said Block 11 for a distance of 70.18 feet to the common corner of Lots 1, 2, 21, and 22, Block 11, Westway Subdivision;

THENCE North along the rear lot line of said Block 11 for a distance of 598.54 feet to a point in the south right-of-way line of Applewood Road in Westway Subdivision;

THENCE South 83 deg. 03' 31" East along the south right-of-way line of Applewood Road for a distance of 110.81 feet to the P. I. of the south right-of-way line of Applewood Road and the west right-of-way line of Essex Drive in Westway Subdivision;

THENCE South along the west right-of-way line of Essex Drive for a distance of 405.14 feet to the common street corner of lots 18 and 19, Block 11, Westway Subdivision;

THENCE East along the rear lot line of Block 9, Westway Subdivision, for a distance of 170.00 feet to the common corner of Lots 3, 4, 6, and 31, Block 9, Westway Subdivision;

THENCE North 74 deg. 40' 30" East along the rear lot line of said Block 9 for a distance of 148.58 feet to the common corner of Lots 7, 8, and 29, Block 9, Westway Subdivision;

THENCE North 84 deg. 00' East along the rear lot line of said Block 9 for a distance of 670.32 feet to a point in the west right-of-way line of DeAlva Drive in Westway Subdivision;

THENCE South 04 deg. 00' East along the west right-of-way line of said DeAlva Drive for a distance of 1065.54 feet to the P. I. of a curve in the west right-of-way line of said DeAlva Drive;

THENCE South 24 deg. 30' East along the west right-of-way line of DeAlva Drive for a distance of 56.67 feet to the easternmost corner of Lot 25, Block 14, Westway Subdivision;

THENCE South 74 deg. 42' 46" West along the rear lot line of Block 14, Westway Subdivision, for a distance of 132.40 feet to the common corner of Lots 14 and 25, Block 14, Westway Subdivision;

THENCE South 84 deg. 00' West along the rear lot line of said Block 14 for a distance of 817.25 feet to the common rear corner of Lots 1 and 2, Block 14, Westway Subdivision;

THENCE South 67 deg. 26' 10" West for a distance of 68.43 feet to a point lying in the easterly right-of-way line of Kingsway Drive in Westway Subdivision;

THENCE North 18 deg. 44' 31" West along the easterly right-of-way line of said Kingsway Drive for a distance of 551.32 feet to a point;

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THENCE South 71 deg. 15' 29" West for a distance of 200.00 feet to the southernmost corner of Lot 7, Block 17, Westway Subdivision;

THENCE West along the south line of Lot 8, Block 17, Westway Subdivision, for a distance of 363.36 feet to a point lying in the easterly right-of-line<sup>1</sup> of U. S. Interstate Highway 10;

THENCE South 26 deg. 00' East along the easterly right-of-way line of U. S. Interstate Highway 10 for a distance of 266.42 feet to a point;

THENCE South 45 deg. 00' East along the easterly right-of-way line of U. S. Interstate Highway 10 for a distance of 493.65 feet to a point;

THENCE South along the easterly right-of-way line of U. S. Interstate Highway 10 for a distance of 595.71 feet to a point;

THENCE South 33 deg. 15' 34" West along the easterly right-of-way line of U. S. Interstate Highway 10 for a distance of 893.46 feet to a point;

THENCE South along the easterly right-of-way line of U. S. Interstate Highway 10 1227.90 feet to a point;

THENCE South 04 deg. 17' 20" East along the easterly right-of-way line of U. S. Interstate Highway 10 for a distance of 200.56 feet to a point;

THENCE South along the easterly right-of-way line of U. S. Interstate Highway 10 379.89 feet to a point;

THENCE South 89 deg. 58' 00" East along the north right-of-way line of Nashua Road in Mobile Haven Estates Subdivision for a distance of 247.23 feet to a P. I. in the north right-of-way line of Nashua Road;

THENCE South 29 deg. 58' East along the northeasterly right-of-way line of Nashua Road for a distance of 128.26 feet to a point;

THENCE North 83 deg. 29' 01" East along the rear lot line of Block 6, Mobile Haven Estates Subdivision for a distance of 684.48 feet to a point in the centerline of Kingsway Drive;

THENCE North 59 deg. 56' 57" East along the rear lot line of Block 5, Mobile Haven Estates Subdivision for a distance of 335.15 feet to a point;

THENCE North 71 deg. 06' 30" East for a distance of 148.00 feet to a point in the centerline of Travelite Drive in Mobile Haven Estates Subdivision;

THENCE North 51 deg. 07' 30" East along the rear lot line of Block 3, Mobile Haven Estates Subdivision for a distance of 353.47 feet to an exterior corner of Lot 29, Block 3, Mobile Haven Estates Subdivision;

THENCE South 89 deg. 58' East along the rear lot line of said Block 3 for a distance of 869.84 feet to the common rear corner of Lots 15 and 16, Block 1, Mobile Haven Estates Subdivision;

THENCE South 69 deg. 59' 01" East along the rear lot line of said Block 1 for a distance of 327.76 feet to a common rear corner of Lots 9 and 10, Block 1, Mobile Haven Estates Subdivision;

THENCE South 89 deg. 58' East along the rear lot line of said Block 1 for a distance of 107.08 feet to a point lying in the west right-of-way line of an alley;

THENCE South 00 deg. 02' West along the west right-of-way line of an alley for a distance of 568.00 feet to a point lying in the south line of Laura E. Mundy Survey 233;

THENCE South 89 deg. 58' East along the south line of said Survey 233 for a distance of 264.00 feet to the southeast corner of said Survey 233;

THENCE North for a distance of 2900.20 feet to an interior corner of Laura E. Mundy Survey 233;

THENCE North 89 deg. 58' East for a distance of 918.30 feet to an exterior corner of Laura E. Mundy Survey 233;

THENCE North along the east line of Laura E. Mundy Survey 233 and the east line of Laura E. Mundy Survey 231 for a distance of 5177.60 feet to the northeast corner of Laura E. Mundy Survey 231;

THENCE West along the north line of Laura E. Mundy Survey 231 for a distance of 4138.50 feet to the point of beginning, containing 571.14 acres of land, more or less.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District (El Paso County Water Control and Improvement District-Westway) will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit. It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of said District, and the right of said District to issue bonds or refunding bonds, or to pay the principal and interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI, of the Constitution, but to the extent that the provisions of any 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. It shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the exclusion of lands or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 5. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct or purchase or construct or acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services, and the District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District but only within the boundaries of El Paso County, Texas, and the District may issue its bonds or refunding bonds for such purposes and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 6. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed

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and qualified. No person shall be appointed a Director unless he owns taxable property in the District and resides in El Paso County, Texas, but such Directors do not have to reside within the boundaries of the District. Such Directors shall subscribe to the Constitutional Oath of Office, and each shall give bond in the amount of One Thousand Dollars (\$1,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum. Immediately after this Act becomes effective, the following named persons shall be the Directors of said District and shall constitute the Board of Directors of said District: Octavio Contreras, Beglar I. Merlich, Burton C. Mirrop, Herbert E. Marsh, and David C. Greene, all residing within El Paso County, Texas. If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume their duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two named Directors aforementioned shall serve until the second Tuesday in January, 1962, or as herein provided, and the following three named Directors shall serve until the second Tuesday in January, 1963, or as herein provided. An election for the election of Directors shall be held on the second Tuesday in January of each year beginning in 1962, and as herein provided. Two Directors shall be elected in each even-numbered year and three in each odd-numbered year. The yearly elections shall be ordered by the Board of Directors. Failure to call an election for Directors will in no way affect the legal status of the District or the Board of Directors or the individual Directors or the right of said Board of Directors to act or function and the Directors shall serve until an election is held under the provisions of this law and the succeeding Directors have been duly elected or appointed and have duly qualified. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president and a vice-president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the District.

Sec. 7. Bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District to be the most advantageous reasonably obtainable, but none of said bonds or refunding bonds shall be sold for less than ninety per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in repayment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety per cent of the face value of the bonds or refund-

ing bonds so exchanged or used for payment as herein specified. When bonds or refunding bonds have been issued by the District and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal, and binding obligations and shall be incontestable for any cause.

Sec. 8. All bonds or refunding 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, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 9. The provisions of Article 7880-77b, Vernon's Civil Statutes, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election.

Sec. 10. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution and the District shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 11. 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. Acts 1961, 57th Leg., p. 431, ch. 210.

<sup>1</sup> So in enrolled bill.

Emergency. Effective May 24, 1961.  
El Paso County Water Authority, see  
art. 8280-266.

#### **Art. 8280—251. Rotan Municipal Water Authority**

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a Conservation and Reclamation District to be known as "Rotan Municipal Water Authority" (hereinafter called "Authority") which shall be a governmental agency and body politic and corporate.



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Sec. 2. The Authority shall contain the following described territory in Fisher County, Texas:

Said Water Authority being located in parts of Block 2 and 3 of the H. & T.C. Railroad Surveys located in Fisher County, Texas and being more fully described as follows:

BEGINNING at the Northeast corner of Section 171 of Block 2 of H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southeasterly direction along the East line of Sections 171, 124, and 113 in Block 2 of H. & T.C. R.R. Surveys in Fisher County, Texas, to the easternmost South corner of said Section 113;

THENCE, in a Southwesterly direction along a South line of Section 113 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas, to an inside Southeast corner of said Section 113;

THENCE, in a Southeasterly direction along an East line of Section 113 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to the Southernmost East corner of said Section 113 and the Northeast corner of Section 14 and continuing to the Southeast corner of Section 14, Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southwesterly direction along the South line of Section 14 and the North line of Section 15 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to the Southwest corner of said Section 14 and the Northwest corner of said Section 15 located in the East line of Section 45 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southeasterly direction along the East line of Section 45 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to the Southeast corner of said Section 45 and the Northeast corner of Section 44 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southwesterly direction along the North line of Section 44 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to the Northwest corner of said Section 44 and the Northeast corner of Section 47 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southeasterly direction along the West line of Section 44 and the East line of Section 47 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to a point in the East line of said Section 47 equal distance from and between the Northeast and Southeast corners of said Section 47;

THENCE, in a Southwesterly direction along a line parallel to and equal distance from and between the North and South lines of Section 47 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas, to a point in the West line of said Section 47 equal distance from and between the Northwest corner and Southwest corner of said Section 47;

THENCE, in a Southeasterly direction along the West line of Section 47 and the East line of Section 48 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas, to the Southwest corner of said Section 47 and the Southeast corner of said Section 48;

THENCE, in a Southwesterly direction along the South line of said Section 48, passing the Northeast corner of Section 41 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas and continuing in a Southwesterly direction along the South line of said Section 48 and the North line of said Section 41 to a point in the North line of said Section 41 equal distance from and between the Northeast and Northwest corners of said Section 41;

THENCE, in a Southeasterly direction along a line equal distance from, between and parallel to the East and West lines of said Section 41

to a point equal distance from and between the North and South lines of said Section 41;

THENCE, in a Southwesterly direction along a line equal distance from, between and parallel to the North and South lines of Section 41 and 40 in Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas and crossing the block line between Block 2 and Block 3 H. & T.C. R.R. Surveys at the West line of Section 40 Block 2 and the East line of Section 1 Block 3 H. & T.C. R.R. Surveys in Fisher County, Texas and continuing in a Southwesterly direction across Sections 1, 2, 3, 4, 5, 6, 7, and 8 in Block 3 of H. & T.C. R.R. Surveys in Fisher County, Texas along a line equal distance from between and parallel to the North and South lines of said Sections 1, 2, 3, 4, 5, 6, 7, and 8 to a point in the West line of said Section 8. Said point being equal distance from and between the Northwest and Southwest corners of said Section 8 in Block 3 of H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southeasterly direction along the West line of said Section 8 and the East line of Section 9 of Block 3 H. & T.C. R.R. Surveys in Fisher County, Texas to the Southwest corner of said Section 8 and the Southeast corner of said Section 9;

THENCE, in a Southwesterly direction along the South line of said Section 9 to the Southwest corner of Section 9 and the Northeast corner of Section 29 of Block 3 H. & T.C. R.R. Surveys in Fisher County, Texas;

THENCE, in a Southeasterly direction along the East line of said Section 29 to a point equal distance from and between the Northeast and Southeast corners of Said Section 29;

THENCE, in a Southwesterly direction along a line equal distance from, between and parallel to the North and South lines of Section 29 of Block 3 H. & T.C. R.R. Surveys in Fisher and Scurry Counties, Texas to a point of intersection with the West line of Fisher County and the East line of Scurry County;

THENCE, in a Northerly direction along the West line of Fisher County and the East line of Scurry County to a point in Section 68 of Block 2 H. & T.C. R.R. Surveys in Fisher and Scurry Counties, Texas. Said point being in the West line of Fisher County and the East line of Scurry County and being equal distance from and between the North and South lines of said Section 68;

THENCE, in a Northeasterly direction across a part of Section 68 and all of Sections 67, 64, 63, 60, 59, 56, 55, and 52 of Block 2 H. & T.C. R.R. Surveys in Fisher and Scurry Counties, Texas along a line equal distance from between and parallel to the North and South lines of said Sections 68, 67, 64, 63, 60, 59, 56, 55, and 52 and continuing to a point in Section 51 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas. Said point being in the center of said Section 51 equal distance from and between the North, South, West and East lines of said Section 51;

THENCE, in a Northwesterly direction along a line equal distance from, between and parallel to the East and West line of Section 51 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to a point in the North line of said Section 51. Said point being equal distance from and between the Northwest and Northeast corners of said Section 51;

THENCE, in a Northeasterly direction along the North line of Section 51 of Block 2 of H. & T.C. R.R. Surveys in Fisher County, Texas passing the Northeast corner of said Section 51 and the Southwest corner of Section 49 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas and continuing Northeasterly along the South line of said Section 49 to a

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point in the South line of said Section 49 equal distance, from and between the Southwest and Southeast corners of said Section 49;

THENCE, in a Northwesterly direction along a line equal distance from, between and parallel to the East and West lines of Section 49 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to a point in the center of said Section 49. Said point being equal distance from and between the North, South, East and West lines of said Section 49;

THENCE, in a Northeasterly direction to a point in the East line of Section 49 and the West line of Section 46 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas. Said point being equal distance from and between the Northeast and Southeast corners of said Section 49;

THENCE, in a Northwesterly direction along the West line of Sections 46, 111, 126, and 169 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to the Northwest corner of said Section 169; and

THENCE, in a Northeasterly direction along the North line of Sections 169, 170 and 171 of Block 2 H. & T.C. R.R. Surveys in Fisher County, Texas to the Northeast corner of said Section 171 to the point and place of beginning.

It is hereby found that all of the land thus included in said Authority will be benefited by the improvement to be acquired and constructed by said Authority.

Sec. 3. (a) All powers of the Authority shall be exercised by a board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be a Director unless he resides in and owns taxable property in the Authority. No member of a governing body of any city or town, and no employee of a city or town shall be a Director. Such Directors shall subscribe to the Constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective, the County Judge of Fisher County shall call an election for the election of five (5) Directors. The election order shall appoint a Presiding Judge who is authorized to appoint an Assistant Judge and such Clerks as may be necessary to hold such election. Notice of the election shall be published in a newspaper published in the City of Rotan at least one (1) time, at least ten (10) days prior to the date set for the election. Only qualified voters residing in the Authority shall be entitled to vote. The returns of the election shall be made to and canvassed by the County Judge who shall enter an order declaring the result thereof. As soon as such Directors qualify, they shall hold a meeting and determine by lot (unless otherwise determined by unanimous vote of the Board of Directors) the two (2) Directors whose terms shall expire the first Tuesday in April, 1962, and the three (3) whose terms shall expire the first Tuesday in April, 1963.

(c) On the first Tuesday in April of each year hereafter, there shall be elected two (2) Directors or three (3) Directors, as the case may be, who shall succeed the Directors whose terms are then scheduled to expire. Each Director so elected shall serve for a term of two (2) years from the date of his election, or until his successor is elected and qualified.

(d) The regular elections shall be ordered by the Board of Directors. The Board shall appoint the Presiding Judge, who shall appoint an

Assistant Judge and at least two (2) Clerks. Notice of the election shall be published in a newspaper published in the City of Rotan one (1) time at least ten (10) days prior to the election. Only qualified voters residing in the Authority shall be entitled to vote. The returns of the election shall be made to and canvassed by the Board of Directors of the Authority who shall adopt a resolution declaring the result thereof.

(e) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than five (5) residents of the Authority who are qualified to vote at the election. Such petition shall be presented to the County Judge for the first election and thereafter to the Secretary of the Board of Directors. The petition shall be presented on such date as will allow not less than fifteen (15) full days between the date of presentation and the date of the election.

(f) Vacancies occurring in the Board of Directors shall be filled for the unexpired term by majority vote of the remaining Directors.

(g) Each Director shall receive a fee of not to exceed Ten Dollars (\$10) for attending each meeting of the Board. Each Director shall also be entitled to receive not to exceed Ten Dollars (\$10) per day devoted to the business of the Authority and to reimbursement for actual expenses incurred in attending to Authority business provided that such service and expense are expressly approved by the Board.

Sec. 4. The Board of Directors shall elect from its number a President and a Vice President of the Authority, and such other officers as in the judgment of the Board are necessary. The President shall be the chief executive officer of the Authority and the presiding officer of the Board, and shall have the same right to vote as any other Director. The Vice President shall perform all duties and exercise all powers conferred by this Act upon the President when the President is absent or fails or declines to act. The Board shall also appoint a Secretary and a Treasurer who may or may not be members of the Board, and it may combine those offices. The Treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as Treasurer of the Authority. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the Authority.

Sec. 5. Other territory may be annexed to the District in the following manner: (a) A petition praying for such annexation signed by fifty (50) or a majority of the qualified voters of the territory who own taxable property therein and who have duly rendered the same to the city or county for taxation shall be filed with the Board of Directors of the District. The petition shall describe the territory by metes and bounds or otherwise unless such territory is the same as that contained in a city or town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within such city or town.

(b) If the Board of Directors finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing subsection, that the annexation would be to the interest of the territory and the District, and that the District will be able to supply water to the territory, it shall adopt a resolution stating the conditions, if any, under which such territory may be annexed to the District, and requesting the Board of Water Engineers of the State of Texas (or any board or body succeeding substantially to the powers and duties of said Board of Water

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Engineers) hereinafter called "State Board," to annex said territory to the District. A certified copy of such resolution and of the petition shall be filed with the State Board.

(c) The State Board shall adopt a resolution declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the District, and fix a time and place when and where a hearing shall be held by the State Board on the question of whether the territory will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the District. Railroad right-of-way which is not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the District is authorized to construct; therefore, it is provided that no railroad right-of-way shall hereafter be annexed to the District except such right-of-way as is contained within the limits of an incorporated city or town then or theretofore annexed to the District.

(d) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property in such territory be published one (1) time in a newspaper designated by the State Board at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner as required or permitted for the petition.

(e) All persons interested may appear at such hearing and offer evidence for or against the intended annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the State Board, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the State Board finds that all of the land in such territory will be benefited by the present or contemplated improvements, works or facilities of the District, the State Board shall adopt a resolution calling an election in the territory to be annexed stating therein the date of the election, the place or places of holding the same, and appointing a Presiding Judge for each voting place, who shall appoint the necessary Assistant Judges and Clerks to assist in holding the election.

(f) Notice of such election, stating the date thereof, the proposition to be voted upon and the conditions under which the territory may be annexed, or making reference to the resolution of the Board of Directors for that purpose, and the place or places of holding the same, shall be published one (1) time in a newspaper designated by the State Board at least ten (10) days before the day set for the election.

(g) Only qualified electors who reside in, and who own taxable property in, such territory and who have duly rendered the same to the city or county in which it is situated for taxation shall be qualified to vote in said election. Returns of said election shall be made to the State Board.

(h) The State Board shall canvass the returns of the election and adopt a resolution declaring the results thereof. If such resolution shows that a majority of the votes cast are in favor of annexation the State Board shall enter an order annexing said territory to the District, and such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the general election law. A certified copy of said order shall be recorded in the deed records of the county in which the territory is situated.

(i) The State Board, in calling the election on the proposition for annexation of territory, may include as a part of the same proposition, a

proposition for the assumption of its part of the tax-supported bonds of the District then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the rest of the District for the payment thereof.

(j) After territory is added to the District, the Board of Directors of the District may call an election over the entire District for the purpose of determining whether the entire District as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the District as enlarged for the payment thereof, unless such proposition is voted along with the annexation election and becomes lawfully binding upon the territory annexed. Such election shall be called and held in the same manner as elections for the issuance of bonds as provided in this Act.

(k) If no newspaper is published in territory to be annexed, the notices shall be posted in three (3) public places therein.

Sec. 6. The Authority is empowered to construct or otherwise acquire and operate, within or without the Authority, all works, plants, pipelines and other facilities necessary for the purpose of treating such water and transporting it to cities and others for municipal, domestic and industrial purposes, and to purchase water, water supply, or water storage space from the United States Government or any agency thereof, or contract for the use of its water supply line. The Authority is authorized to sell any real or personal property not needed for the exercise of its powers hereunder.

Sec. 7. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority shall have the right to acquire land and easements within and without the Authority by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. The Authority shall have the same power as is conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the Thirty-ninth Legislature with reference to making surveys and to attending to other business of the Authority.

(b) 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, re-routing 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, re-routing, 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, lowering, 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.

Sec. 8. Any construction contract or contract for the purchase of material, equipment or supplies requiring an expenditure of more than Two Thousand, Five Hundred Dollars (\$2,500) shall be made to the lowest responsible bidder after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon

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which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in the Authority and designated by the Board of Directors.

Sec. 9. (a) For the purpose of providing a source of water supply for cities and other users for municipal, domestic and industrial purposes, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds to be payable from such revenues of the Authority as are pledged by resolution of the Board of Directors.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the Authority, signed by the President or Vice President, attested by the Secretary, or the facsimile signature of either or both of such officials may be printed thereon, and shall have the seal of the District impressed or printed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and they may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registerable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority, or by the net revenues of any one (1) or more contracts theretofore or thereafter made or other revenues specified by resolution of the Board of Directors or a trust indenture authorized by said Board. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the Authority after deduction of the amount necessary to pay the cost of maintaining and operating the Authority and its properties.

(e) For the purposes stated in Section 9 (a) hereof, the District is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured both by and payable from such taxes and the revenues of the Authority. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the Board of Directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds or the trust indenture.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and

other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise, the rate of compensation for water sold and services rendered by the Authority which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture.

(g) From the proceeds from the sale of the bonds, the Authority may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds or trust indenture. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this Authority is created.

(h) In the event of a default or a threatened default in the payment of principal or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority except taxes, employ and discharge agents and employees of the Authority, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the Authority without consent of or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. It is provided, however, that the resolution authorizing the issuance of the bonds or the trust indenture securing their payment may specify the minimum per cent of outstanding bonds which must be held by the holders seeking the appointment of a receiver, and may otherwise qualify the right of holders to institute litigation which might affect the District's property or funds.

Sec. 10. The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges and mortgage liens for the outstanding bonds for the security of refunding bonds, and the refunding bonds may be secured by other or additional revenues. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders 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 resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 11. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, may be additionally secured by a mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power



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to operate the properties and all other powers and authority for the further security of the bonds. The trust indenture may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under such trust indenture shall be the owner of the properties and facilities so purchased and shall have the right to maintain and operate the same.

Sec. 12. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters who reside in the Authority and who own taxable property therein and who have duly rendered the same for taxation shall be permitted to vote. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the Presiding Judge for each voting place. The Presiding Judge serving at each voting place shall appoint one (1) Assistant Judge and at least two (2) Clerks to assist in holding such election. Notice of the election shall be given by publishing a substantial copy thereof in a newspaper having general circulation within the Authority for two (2) consecutive weeks. The first publication shall be at least twenty-one (21) days prior to the election.

(c) The returns of the election shall be made to and canvassed by the Board of Directors of the Authority.

(d) The general laws relating to elections shall be applicable to elections held under this Section of this law except as otherwise provided in this law.

Sec. 13. After any bonds are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and any city or other governmental agency or district, a copy of such contract and the proceedings of the city or other governmental agency or district authorizing such contract shall also be submitted to the Attorney General. If the Attorney General finds that such bonds have been authorized and such contracts have been made in accordance with the Constitution and laws of the State of Texas he shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the contracts if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 14. Proceeds from the sale of bonds may be invested in direct obligations of the United States of America, or obligations unconditionally guaranteed by Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Associations, Federal Home Loan Banks for Cooperatives.

Sec. 15. The Authority is authorized to enter into contracts with cities and others for supplying water to them. The Authority is also authorized to contract with any city for the rental or leasing of, or for the operation of the water production, water supply and water supply

facilities of such city upon such consideration as the Authority and the city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Sec. 16. (a) The Board of Directors shall designate one or more banks within the Authority to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the F.D.I.C. they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks in the Authority to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be published one (1) time in a newspaper published in the Authority and specified by the Board.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority and which the Board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice or if no such application is accepted, the Board shall designate some bank or banks within or without the Authority upon such terms and conditions as it may find advantageous to the Authority.

Sec. 17. The Authority is authorized to acquire water appropriation permits directly from the Board of Water Engineers of the State of Texas or from owners of permits. The Authority is also authorized to enter into contracts for the purchase of water or a water supply or water storage space from any person, firm, corporation or public agency.

Sec. 18. All bonds of the Authority 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, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the 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 appurtenant thereto.

Sec. 19. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement

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of their properties and industries, the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder, and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 20. Prior to the sale and delivery of bonds which are payable wholly or partially from ad valorem taxes the Board of Directors shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls and the levy and collection of taxes, tax liens, and delinquent taxes shall be applicable to this Authority. The Authority may make a contract with the City of Rotan under which said City shall assess and equalize taxes and collect taxes for the entire Authority.

Sec. 21. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby. Acts 1961, 57th Leg., p. 505, ch. 244.

Emergency. Effective May 27, 1961.

#### Art. 8280—252. Farmers Creek Watershed Authority

Section 1. There is hereby created within the State of Texas, a conservation and reclamation district to be known as Farmers Creek Watershed Authority which shall include and consist of portions of Montague County described and contained within the metes and bounds set forth in Section 2 of this Act. The Authority is hereby declared to be a governmental agency and body politic with the power to control, store, preserve and distribute storm and floodwaters along the reaches of Farmers Creek and tributaries in the County herein named, as authorized in Article XVI, Section 59 of the Constitution of Texas.

Sec. 2. It is expressly determined and found that all of the territory included within the area of the District will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas. The area of the Authority shall be all of that territory enclosed within the following metes and bounds description, to wit:

BEGINNING in the South bank of Red River, said point being the N.E. corner of the Francisco Escobar Survey Abst.No.216, same being the N.W. cor. of John Short Sur. Abst. No. 664, also being the N.E. cor. of a certain 192.2 acre tract out of said Francisco Escobar Survey owned or once owned by John G. Howard;

THENCE South  $4\frac{1}{2}^\circ$  W. 588 varas along the E.B.L. of said Escobar Survey, a corner, being the S.E. corner of said 192.2 acre Howard tract;

THENCE N.  $89^\circ$  W. 1110 vrs. along S.B.L. said 192.2 acre tract to point for corner;

THENCE S.  $67\frac{1}{2}^\circ$  W. 364 vrs. to a point in W.B.L. of said Escobar survey, same being in the E.B. line of Block 108 Kaufman County School Land Survey Abstract No. 407;

THENCE N. 944 vrs., more or less, to a point in the West line of said Escobar survey, same being the N.E. cor. of Blk.108 Kaufman Co.

Sch.Land sur.; and the S.E. corner of the John H. Tyler Survey Abstract No. 1652;

THENCE W. at 108 vrs. passing the S.W. corner of said Tyler survey and S.E. cor. of the W.J.Mayfield survey Abst.No. 537, continuing in all 780 vrs., more or less to corner, being the S.W. cor. of the said W.J. Mayfield survey Abst.No.537; also being the S.E. cor. of the G.W. Coffee survey Abst. No. 144;

THENCE N. along W.B.L. said Mayfield survey  $961\frac{3}{4}$  varas to point in E.B.L. of G.W.Coffee Sur. said point being at what is known as the N.E. cor. of the South half of said G.W.Coffee survey;

THENCE W. 950 vrs., more or less, across the said Coffee survey and along the N. line of the South half of said Coffee survey, to a point in its W.B.L., same also being the N.E. cor. of Blk.85, of Kaufman County School Land Survey Abst.No. 407, continuing West along the N.B.L. of said Blk. 85, Kaufman Co. School land Survey, at 1968 varas pass the N.W. cor. of Blk. 85 and N.E. corner of Blk. 72, Kaufman County School Land Survey and continuing in all a distance of 2986 vrs. more or less, a corner, being the N.W. corner of said Block 72 of Kaufman County School Land survey; same being in the East line of the J. Wells Survey Abstract No. 851;

THENCE S. 783 vrs., more or less, a cor. in W.B.L. of said Blk.72;

THENCE East 952 vrs. a corner being the N.E. corner of a tract out of said Block 72, owned or once owned by W.J.Tucker;

THENCE S.  $82^{\circ}$  E. 57 vrs. corner in E.B. line of Block 72 Kaufman County School Land survey;

THENCE S. at 202 vrs., more or less, pass the S.E.Cor. of said Blk. 72 and the N.E. corner of Block 71, and continuing South along the E.B.L. said Blk. 71, in all 1152 vrs., more or less to cor. in S.E. cor Blk. 71, being the N.E. cor. Blk. 70 Kaufman County School Land survey;

THENCE S.  $89\frac{1}{4}^{\circ}$  W. 1008 vrs. along N.B.line Blk. 70, to N.W. cor. said Blk. 70, being a point in E.B.L.of Blk. 60, said survey;

THENCE S. 185 vrs. a cor., being N.E. Cor. Blk.59 and the S.E. cor. Blk. 60, said Kaufman County School Land Survey;

THENCE W. 850 vrs. cor., being N.W. cor. Blk.59 and N.E. cor. of Blk. 48, said Kaufman County School Land survey;

THENCE S. 752.5 vrs. more or less, along the W.B. line of said Blk. 59, to its S.W. cor., being a point in the N. line of Blk.47 said Kaufman County School Land survey;

THENCE E. 400 vrs., more or less, to N.E. cor. said Blk.47, also the N.W. cor. of Blk. 58, said survey;

THENCE S. 950 vrs. pass the S.E. cor. of Blk.47 and N.W. cor. of Blk. 57, said survey, continuing South in all 1278.3 vrs. a cor. in W.B.line said Blk.57, same being the S.W. corner of a certain  $56\frac{3}{4}$  acre tract out of said Blk.57, owned or once owned by Patience Howard;

THENCE E. 950 vrs., more or less, along the S.B.L. of said Howard  $56\frac{3}{4}$  acre tract, to a corner in the E.B. line of said Blk. 57;

THENCE S. at 621 vrs. pass the S.E. cor. of Blk. 57, and N.E. cor. of Blk. 56; continuing S. at 1571.7 vrs. passing the S.E. corner of Blk. 56, and N.E. cor. of Blk. 55, at 2521.7 vrs. in all to a corner, being the S.E. cor. of Blk. 55 and the N.W. cor. of Blk. 65, said Kaufman County School Land survey;

THENCE E. along the N.B. line said Blk. 65, 950 vrs. a corner being the N.E. corner of said Blk. 65;

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THENCE S. along E.B. line of Blk. 65, 950 vrs. cor. being the S.E.C. of Blk. 65, and N.W.C. Blk., said survey;

THENCE E. 950 vrs. along N.B.L. of said Blk. 77, a corner, being the N.E.C. Blk. 77 and N.W. C.Blk. 90;

THENCE S. at 950 vrs. pass the S. E. corner of Blk.77 and N.E. Cor. of Blk. 76, and continuing S. in all 1900 vrs. a corner, being the S.E. cor. of Blk. 76, and N.W. cor. Blk. 88, said Kaufman County School Land survey;

THENCE E. 1512 vrs., more or less, along the N. line of said Blk. 88, to corner, being the N.E. cor. of Blk.88, also being a point in E.B.line of said Kaufman County School Land survey;

THENCE S. along E.B. line of said Blk. 88, at 950 vrs.pass its S.E. cor., and N.E.cor. of Blk. 87, and continuing South in all 2090 vrs. to S.E. Cor. of Blk. 87, Kaufman County School Land survey, said point being also an inner ell corner of Sec. 22 MEP&PRR Co. Survey Abst. No. 534;

THENCE continuing South, across said Sec.22 MEP&PRR Co. survey in a line parallel to, and 530 vrs. East of the W.B. line of said Sec. 22, in all 1377.0 vrs. to cor. on S.B. line of Sec. 22, and N.B. line of Sec. 58 MEP& PRR Co. Sur. Abst. No.529, same being approximately 775 vrs. West of the N.E. cor. of said Sec. 58, MEP&PRR Co.;

THENCE W. 275 vrs., more or less, along N. line of Sec.58, MEP&PRR Co. Survey to corner, being the N.W. corner of the N.E.¼ of said Section 58;

THENCE S. along West line of said N.E. ¼ of Sec. 58, 860.5 vrs. a corner, being the N.W. corner of the S.E. ¼ of said Section 58, MEP&PRR Co. survey;

THENCE E. along S. line of the N.E.¼ of said Section, 1050 vrs. cor. on E.B. line Sec. 58 MEP&PRR Co. survey, said point being 860.5 vrs. S. of the N.E. cor. of said Sec. 58, also being in the W.B. line of the Henry Brite Survey Abst. No. 45;

THENCE S. at 860.5 vrs. pass the S.E. cor. of Sec. 58 MEP&PRR Co. and the N.E. corner of Sec. 56 MEP&PRR Co. Survey Abst.No.530, and continuing S. in all 1642.5 vrs. more or less, a corner in E.B.L. of said Sec. 56 MEP&PRR Co. Survey, and the W.B. line of the Beaty-Seale & Forwood survey Abst. No. 98, said corner being the S.W. cor. of a certain 100 acre tract in the N.W. corner of said said Beaty-Seale-Forwood survey, owned or once owned by Mrs. Glemma Clement;

THENCE E. at 751.5 vrs. pass the S.E. corner of said 100 acre tract in the Beaty-Seale-Forwood survey and continuing E. in all 1443 vrs. a corner, being the N.E. cor. of a certain 78¾ acre tract in the Beaty-Seale-Forwood survey, owned or once owned by J.M.Price;

THENCE S. along E.B.L. said 78¾ acre tract 861.5 vrs. a corner on S.B. line said Beaty-Seale-Forwood survey, also being a point on N.line of the Horatio N.Baker survey Abst. No.49;

THENCE E. 684 vrs. a corner, being the S.E. corner of the Beaty-Seale-Forwood survey, and N.E. corner of said Baker survey, also being the N.W. C. of Sec.47 MEP&PRR Co. Sur.Abst. No.532;

THENCE S.¼° E. 342 vrs., more or less, to corner being in the W.B. line said Sec. 47 MEP&PRR Co. Survey, at the N.W. cor. of a certain 217.5 acre tract out of said Sec.47, owned or once owned by W.H.Mathis;

THENCE E. 574¾ vrs. a corner, being the most Northerly N.E. cor. of said Mathis 217.5 acre tract;

THENCE S. 475 vrs. a corner; being an inner ell corner of said 217.5 acre tract;

THENCE E.  $475\frac{1}{8}$  vrs. a corner, being most Southerly N.E. cor. of 217.5 acre tract, said point also being in the W.B.L. of a certain 200 acre tract owned or once owned by E.G. Reed in the S.E. portion of Sec. 47 MEP&PRR Co. Survey;

THENCE S. 895 vrs. to cor. on S.L. Sec. 47 MEP&PRR Co. Sur. Abst. No. 532, at a point 1050 vrs. E. of its S.W. corner; also being in the N.L. of the R.R. Fulton Survey Abst. No. 900;

THENCE E. 396 vrs., more or less, along the N. line of said Fulton survey to its most Northern N.E. cor. same being the N.W. cor. of the James T. Gordon Survey Abst. No. 901;

THENCE S.  $12^{\circ}$  E. 603 vrs. a corner, being the S.W. C. of said Gordon survey and the most Northern N.W. cor. of the J.D. Evans survey Abst. No. 260;

THENCE E. 937 vrs. along the N. line of said J.D. Evans Sur. to its N.E. corner, being a point in the W.B. L. of the F.J. Bellows sur. Abstract No. 33;

THENCE N. 1008 vrs. along W.B. line of said Bellows survey to its N. W. corner, same being the S. W. corner of the Isaac S. Howard Sur. Abst. No. 1292;

THENCE E. 950 vrs. along the most Northern line of the said F.J. Bellows Sur. Abst. No. 33, to its most Northern N.E. cor.;

THENCE S. 700 vrs. an inner ell corner of said Bellows Sur., being the S.W. cor. of the Samuel Epps Survey Abst. No. 217;

THENCE E. 380 vrs. corner, (being the middle N.E. cor. of said Bellows survey) in the S. line of said Samuel Epps survey and the N.W. corner of the J.C. Jones Sur. Abst. No. 397;

THENCE S. 950 vrs., another inner corner of said Bellows sur., being the S. W. cor. of said J.C. Jones survey;

THENCE E. 129 vrs. a corner, being the N.W.C. of G.J. Gordon survey Abst. No. 309;

THENCE S. 1074 vrs. to S.E. cor. of the F.J. Bellows sur. in N. line of the David Redwine Survey Abst. No. 990;

THENCE W. 162 vrs., more or less, to N.W.C. of David Redwine Sur. being the most Northerly N.E. cor. of the Ransom Hoppis Sur. Abst. No. 1092;

THENCE S. 1050 vrs. along W.B. line of said Redwine survey to its S.W. corner;

THENCE E. at 31 vrs. the N.W. cor. of the W. J. Owens Sur. Abst. No. 1252, continuing E. along the most Northerly North line of said Owens survey in all 138 vrs. a corner, being the most Northerly N.E. corner of said Owens survey;

THENCE S. 356 vrs. a corner, being an inner ell corner of the W. J. Owens survey Abst. No. 1252, same being the S. W. corner of the Thomas Owens survey Abst. No. 584;

THENCE E. 175 vrs. a corner, in S. line of Thomas Owens Sur. Abst. 584, being the N.W. corner of the John C. Askins sur. Ab. No. 6;

THENCE S. 138 vrs. along the W. line of said Askins survey to its most Westerly S.W. corner;

THENCE E. 227 vrs. passing the most Southerly N.E. corner of the W.J. Owens Sur. Abst. No. 1252, and N.W. cor. of the J.D. Pedigo Sur. Abst.

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No. 1315, continuing E. in all 800 vrs. a corner, the most Northerly N.E. cor. of said Pedigo Sur.;

THENCE S. 260 vrs. a cor. being the S.W. cor. of the S.C. Roach Sur. Abst. 1667 in N. line of the C. Meadow Sur. Ab. 556;

THENCE W. 203.6 vrs. along N. line of said Meadow Sur. to its N.W. corner;

THENCE S. 950 vrs. with the W.B. line of said C. Meadow Sur. to its S.W. corner also being an inner corner of said J.D. Pedigo Sur.;

THENCE E. 630 vrs. more or less, along the S.L. of said C. Meadow Sur. to a point for cor. in W. ROW line of a public road;

THENCE approximately S. 19° W. 341 vrs., more or less, along the West line of said road, and across a portion of the J.D. Pedigo Sur. Abst. 1315, to cor. in the most Southerly S. line of said Pedigo Sur.; same being a point in the N.L. of the Ramon Trevinio Sur. Ab. 732;

THENCE W. 280 vrs., more or less, along the N.L. of the said Trevinio Sur. to its N.W. cor.; also being the N.E.C. of the N.D. Crump Sur. Abst. No. 947;

THENCE S. 1900 vrs. along E. line of said N.D. Crump Sur. to its S. E. cor. also in N. line of the Henry Chancey Sur. Ab. 1209;

THENCE W. 161 vrs. cor. on most Northern N.E. line of the Chris. Dart Sur. Abst. No. 190 also being the most Northern West cor. of said Chancey Survey;

THENCE S. 36 W. 220 vrs. along the S.E. line of a certain 45 acre tract out of the Chris. Dart Sur. owned or once owned by C.S. Chancey, a corner in N.E.L. of public road;

THENCE N. 53 W. 288 vrs., more or less, along public road, a cor., being the most Easterly cor. of a certain 120 acre tract out of said Dart Survey owned or once owned by Cecil Boggess;

THENCE approximately S. 53° W. 378 vrs., more or less to corner, being the West cor. of a certain 5.56 acre tract in said Dart Survey, owned or once owned by Mrs. C.A. Howard;

THENCE S. 37° E. 190 vrs.;

THENCE N. 56½ E. 56.2 vrs.;

THENCE about S. 3° E. 75 vrs., more or less, a corner, being the N. cor. of a certain 8.5 acre tract in said Dart Sur. owned by or once owned by J.H. Chancey;

THENCE S. 7° W. 378 vrs., more or less, a cor. on N.E.L. of the Alex Kitchen Sur. Abst. No. 409, being the most Southern corner of the Cecil Boggess 120 acre tract;

THENCE N. 37° W. 540 vrs., more or less, along N.E.L. of said Alex Kitchen Sur. to its North corner, also being the East corner of Samuel Epps Sur. Abst. 220;

THENCE S. 53 W. 160 vrs. pass the S. cor. of said Samuel Epps Sur. Abst. 220, and East corner of George W. Cayce Sur. Ab. 142; continuing S. 53 W. 313.20 vrs., more or less, to N.ROW of MK&TRR Co., said point being the S. cor. of a certain 55 acre tract owned or once owned by J.C. Boggess in the Cayce Survey.

THENCE along the North ROW line of said Railroad, and along the S. line of said 55 acre tract in a general Northwesterly direction 810 vrs., more or less, pass the West cor. of said 55 acre tract, and the S. cor. of a certain 60 acre tract owned or once owned by Cecil Boggess in said Cayce Sur. and continuing along the N.ROW line of said MK&TRR Co. in all

1414 vrs., more or less, to cor. in N.W.L. of the said Cayce Sur. being in the S.E. line of the John Groender Sur. Abst. No. 299;

THENCE S. 53 W. along the N.W.B. line of the Cayce Sur., crossing the MK&TRR Co., and U.S. Highway 82, about 612 vrs. to cor., the W. corner of the said Cayce Sur.; also being the S. cor. of the said Groender Sur. also being a point on N.E.L. of the J.B. Miller Sur. Abst. No. 461;

THENCE S. 37° E. along the N.E. line of said Miller sur. Abst. No. 461, 537 vrs., more or less, to cor. on N.E. line of said Miller survey, being the N. cor. of a certain 45 acre tract out of the said Miller survey, owned or once owned by T.A. Wiley;

THENCE S. 53 W. along the N.W.L. of said Wiley 45 acre tract, 415 vrs. a corner, being in the N.E.L. of a certain 246 $\frac{2}{3}$  acre tract out of the Miller survey in the name of W.E. Scott et al.;

THENCE S. 37 E. 640 vrs., more or less, along said Scott's N.E. L. to corner in N.W. ROW line of old Montague and Saint Jo Public Road;

THENCE S. 61° W. 428 vrs. along N.W.L. of said road, a cor.;

THENCE S. 44 $\frac{1}{2}$  W. 765 vrs. along said road a corner;

THENCE in a Southerly direction crossing said Montague & Saint Jo road, and continuing approximately S.  $\frac{1}{4}$ ° W. 200 vrs. to cor. being a point in the N.W.B.L. of a certain 83.3 acre tract out of the said James B. Miller Sur. in the name of C.D. Meador et al.;

THENCE N. 62 $\frac{1}{2}$ ° E. 100 vrs., more or less to cor. being the N. cor. of said 83.3 acre tract;

THENCE S. 37° E. 975 vrs. cor. in SEBL of said Miller sur.;

THENCE S. 53 W. 1316 vrs., more or less, along the SEBL of the James B. Miller sur. to its South corner, said point being on inner cor. of the A. Stewart Sur. Abst. No. 713;

THENCE N. 37° W. at 220 vrs. pass E. cor. of C.E. Holmes Sur. Abst. No. 1627, continuing N. 37° W. along N.E.L. of the Holmes Sur. in all 810 vrs. to cor., being the N. cor. of the Holmes sur., also the most Southerly East cor. of the M.B. Lewis Sur. Abst. No. 424;

THENCE S. 53° W. 935 vrs. along N.W.L. of the C.E. Holmes Sur. to its W. cor., being in the most Easterly N.E. line of the John Burgess Sur. Abst. No. 29; also the most Southerly S. cor. of the M. B. Lewis survey;

THENCE N. 37° W. 407 vrs. along the most Easterly N.E.L. of the John Burgess Sur. to its most Southerly North Corner;

THENCE S. 53 W. at 208 vrs. crossing public road, continuing in all 402 vrs. a corner; being an inner cor. of said Burgess Sur.;

THENCE N. 37° W. at 805 vrs. pass N. cor. of the Burgess Sur., and the East corner of L. S. Farrar Survey Abst. 282, and continuing N. 37 W. along N.E. L. of the Farrar sur. crossing the old Montague & Saint Jo road, in all 1755 vrs. to cor. being the N. cor. of said Farrar survey;

THENCE S. 53° W. 485 vrs. a corner in N.W.B.L. of said Farrar survey, said point being the most Northerly East cor. of the William C. Masters survey Abst. No. 1244;

THENCE N. 37° W. 70 vrs. to the most Northerly cor. of said Masters survey, also being the East corner of the John A. Ivie Survey Abst. 911;

THENCE S. 53 W. along the N.W.B.L. of the William C. Masters Survey Abst. No. 1244, 1458 vrs. to its west corner, also being on the N.E.L. of the John W. Kelly Survey Abst. No. 408;

THENCE S. 43° E. along N.E.L. of the John W. Kelly Survey, 747 vrs. to its East corner, being a point in N.W.L. of the F.A. Bettinger survey



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Abst. No. 63, said point being 65 vrs. S. 47 W. of the N. cor. of said Bettinger Survey;

THENCE N. 59° W. 286 vrs. cor. in N.L. of public road;

THENCE S. 89 W. along N.L. of said public road 786.2 vrs., more or less, a corner, being the E.cor. of a certain  $41\frac{3}{4}$  acre tract out of the John W. Kelly survey owned or once owned by Geo. E. & Roy R. Peery;

THENCE S. 54° W. 179 vrs. along the N.L. of said road, a cor.;

THENCE S. 6° E. crossing the road & continuing same course 657 vrs. more or less, to corner, being the N. cor. of a certain 37.4 acre tract in the Kelly survey; owned or once owned by W. R. Williams;

THENCE S. 47° W. 700 vrs. along the N.W. line of the Williams 37.4 acre tract to corner in the S.W.B.L. of the John W. Kelly sur. said point being N. 40° W. 303 vrs. from the S. cor. of the Kelly survey, also being a point the N.E.L. of the J. Collier Sur. Abst. No. 1213;

THENCE N. 40° W. with N.E.L. of the J. Collier survey, 439 vrs. a corner, being the North corner of the said Collier survey, also the East corner of the M.Hunt Survey Abst. No. 349;

THENCE S. 47° W. along S.E.L. of the M. Hunt survey Abst. 349, 1344 vrs. to its South corner, also being the East corner of the J. Collier Survey Abst. No.1212, being a point on the N.W.L. of the A.Mizell Survey Abst. No. 488, being 496 vrs. S. 65° W. from the North corner of said Mizell survey;

THENCE S. 65° W. 490 vrs. along the S.E.L. of the J.Collier Survey Abstract No. 1212; pass its South corner and the E. Cor. of the M. Hunt Survey Abst. No.350, continuing S. 65° W. passing the W.C. of the A. Mizell survey and N.E.C. of Blk. 14 Calhoun County School land survey Abst. No. 122, in all 1834 vrs. to the S. Cor. of the M. Hunt Survey Abst. No. 350, also being an ell corner of Blk.18, Calhoun County School Land survey Abstract No. 122, and the northern N.W.C. of said Blk. 14 Calhoun County School Land survey Abst. 122;

THENCE N. 25° W. 315 vrs. a corner in S.W.L. of the M. Hunt survey Abst. No. 350, also being the most Northerly N. cor. of a certain 182.4 acre tract owned or once owned by Isom Collier et ux, in said Calhoun County School Land survey;

THENCE S. 47° W. 948 vrs. across Blk. 18, Calhoun County School Land survey to its S.W. line and N.E. line of Blk. 19;

THENCE S. 43° E. 650 vrs. more or less, a corner, being the North corner of Blk. 15 and the East corner of Blk. 19, Calhoun County School Land Survey Abst. No. 122;

THENCE S. 47° W. at 950 vrs. pass the North corner of Blk.16, at 1900 vrs. pass the North corner of Blk. 17, at 3200 vrs. in all to corner being the W. cor. of Blk. 17, and on the S.W.B.L. of League 12 Calhoun County School Land survey Abst. No. 122;

THENCE N. 43° W. along the S.W.L. of Blk. 21, Calhoun County School Land survey at 950 vrs. pass its West corner and the S. Cor. of Blk. 26 Calhoun County School Land survey, continuing in all 1388 vrs. a corner, being the N.E. cor. of the W.M.Davis survey Abst. No. 1081, and most Southerly East corner of the J.P. Kern Survey Abst. No. 1239;

THENCE N. 89° 45' W. 898 vrs. along the S.B.L. of said Kern survey to its S.W. cor. also being a point in the E.L. of the H. Frost survey Abst. No. 263, and in the N.L. of the old Montague and Dye Mound road, also being the S.E.C. of a certain 177 acre tract out of the H. Frost Survey

Abst. No. 263, owned by C. H. Fenoglio. Said point being approximately 1113.5 vrs. N. of the S.E.C. of said Frost survey;

THENCE N.  $63\frac{1}{2}^{\circ}$  W. 754 vrs. along the North line of road a cor.;

THENCE N. 20 vrs. along E.L. of public road;

THENCE W. 1014 vrs. along said road to S.W.C. of the Fenoglio 177 acre tract;

THENCE N. 525 vrs. cor. being the N.W. cor. of said 177 acre tract;

THENCE E. 685.5 vrs. a corner being the S. E. cor. of a certain 120 acre tract out of the Frost survey in name of W.C.Fenoglio;

THENCE N. 920 vrs. corner of the N.W.cor. of the W.H.Brown 160 acre tract in the Frost survey;

THENCE E. along the S. ROW line of Hwy.59, 986 vrs. more or less, to N.E.C. of the W.H. Brown 160 acre tract, also being a point in the E.L. of the H. Frost survey;

THENCE N.1061 vrs. along E.L. of said Frost survey to its N.E. corner, being the N.W. corner of the Chas. C. Milnee Survey Abst. No. 500, and in S. Line of the A.L. Matlock Sur. Abst. No.1411;

THENCE W. along S.L. of the Matlock survey, at 252 vrs., more or less, pass the S.W. corner of a certain 53 acre tract in the Matlock survey owned by J.E. Cox, and continuing West in all 811 vrs., more or less, to cor. in S.L. of the Matlock survey, being the SWC of the B.B. Fenoglio 119 acre tract in said Matlock survey;

THENCE N. along W.L. of said 119 acre Fenoglio tract, 1209 vrs. a corner in N.L. of said survey being a point 166 vrs. E. of the N.W.C. of the A.L. Matlock survey, and in the S.L. of Sec. 3, MEP&PRR Co. Survey Abst. No. 513;

THENCE E. 360 vrs., more or less, along S.L. of said Sec. 3 MEP&PRR Co. Survey to its S.E. corner;

THENCE N. along E.L. of said Sec. 3, 1900 vrs. to its N.E. cor. and S.E. cor. of Sec. 6 MEP&PRR Co. Survey Abst. No. 515;

THENCE W. 998 vrs. along S.L. said Sec. 6, MEP&PRR Co. a corner, being the SWC of a certain 100 acre tract out of Sec.6, owned or once owned by J.B. Reed;

THENCE along the East line of the old M.&S.W.Railroad ROW as follows: N. $2\frac{3}{4}^{\circ}$  E. 171.5 vrs.; N.  $6^{\circ}$  E. 422 vrs; N.  $6^{\circ}$  E. 299 vrs.; N.  $3\frac{1}{2}^{\circ}$  E. 185 vrs.; N.  $4\frac{3}{4}^{\circ}$  E. 100 vrs;

THENCE in a Northerly direction passing the S.W.C. of a certain 100 acre tract owned by C.W. Bell out of said Sec. 6, in all 752 vrs., more or less, to corner in N.L. of said Sec. 6; same being a point 894 vrs. N.  $88\frac{3}{4}^{\circ}$  W. from the N.E.C. of said Sec. 6. MEP&PRR Co. survey, also being in the South line of Sec. No. 8, M.E.P. & P.R.R. Co. Survey Abst. No. 524;

THENCE W. along S.L. of Sec. 8, MEP&PRR Co. Survey, 56 vrs., more or less, a corner, being the S.W.C. of the S.E.  $\frac{1}{4}$  of said Sec. 8, MEP&PRR Co. Survey;

THENCE N. 1900 vrs., more or less, across Section 8 to corner, being the N.E.C. of the N.W.  $\frac{1}{4}$  of Sec. 8, MEP & PRR Co. Sur. and also the S.E.C. of the S.W.  $\frac{1}{4}$  of Sec. 11, MEP&PRR Co. Survey Abst. No. 516;

THENCE W. along S.B.L. of Blk. 11, 950 vrs. to its S.W. cor. being the S.E.C. of Sec. 10 MEP&PRR Co. Survey Abst. No. 517;

THENCE N. 950 vrs. along E.L. of said Sec. 10, to the N.E. cor. of the S.E.  $\frac{1}{4}$  of said Sec. 10;

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THENCE W. 1415 vrs. along the N. line of the S $\frac{1}{2}$  of Sec. 10 to corner, being the S.E.C. of the W $\frac{1}{2}$  of the N.W.  $\frac{1}{4}$  of said Sec. 10;

THENCE N. 950 vrs. along the E.L. of the W $\frac{1}{2}$  of the N.W.  $\frac{1}{4}$  of said Sec. 10, to cor. in the N.L. of Sec. 10, being 475 vrs. E. of its N.W. cor., and the S.W. cor. of Sec. 15 MEP&PRR Co. Sur. Ab. 519; and continuing North parallel to, and 475 vrs. East of the W.L. of Sec. 15, MEP&PRR Co. Sur. Abst. No. 519, 1314 vrs., more or less, a corner, being the N.W.C. of a certain 11 $\frac{1}{3}$  acre tract out of Sec. 15, owned by, or once owned by Mrs. M. C. Tittsworth;

THENCE E. 475 vrs. a corner;

THENCE N. 587 vrs., more or less, to cor. in N.L. of Sec. 15, said point being 950 vrs. E. of its N.W.C. also being a point in S.L. of the A.B. & E. Duncan Survey Abst. No. 1150;

THENCE E. along S.L. of said Duncan survey, 360 vrs., more or less to its S.E. corner, also being the S.W. cor. of the Wm. Goss Sur. Abst. No. 1525;

THENCE N. along W.L. of the Goss survey, 950 vrs. to its N.W. corner, also being the S.W. cor. of the J. L. Benton survey Ab. 1066;

THENCE E. along S.L. of said Benton survey, 950 vrs. to its S.E. corner, said point being the S.W. corner of the N $\frac{1}{2}$  of Sec. 15 E.T.R.R.Co.Survey Abst. No. 235;

THENCE N. at 950 vrs. pass the N.E.C. of the J. L. Benton survey and the S.W.C. of the Taylor Benton survey Ab. 1071, and the S.E.C. of the Thomas R. Jackson Sur. Ab. 394, and continuing North in all 1900 vrs. corner, being the N.W.C. of the Taylor Benton survey Ab. 1071, in the E.L. of the Thos. Jackson Sur., and continuing N. 234 vrs. more or less, to cor. in E.L. of the Thomas Jackson Survey Abst. No. 394, said point being the S.E.C. of a certain 50 acre tract in said Jackson sur. owned by John Kirby;

THENCE W. 396 vrs. a corner, being the S.W.C. of the Kirby 50 acre tract;

THENCE North along the West line of said Kirby tract, crossing State Highway No. 82, in all 712.5 vrs. the N.W. corner of the Kirby tract, being a point 396 vrs. W. of the E.L. of the Thos. Jackson survey;

THENCE W. 147 vrs. cor. being the S.W.C. of a certain 53 acre tract out of the Jackson survey owned or once owned by Walter Hill;

THENCE N. 13 $\frac{1}{2}$ ° E. 660 vrs. a corner in S. ROW of MK&TRR Co. ROW, said point being 408 vrs. S. 87° 32' W. from the E.L. of the Jackson Survey;

THENCE N. crossing the MK&TRR Co. ROW to a point in S.L. of a certain 175 acre tract out of the Jackson survey owned by C. P. Dodson, said point being approximately 408 vrs. W. of the E.L. of the Jackson survey;

THENCE W. along the North ROW line of MK&TRR Co., 1492 vrs., more or less, to the West B.L. of the Thomas Jackson survey Ab. 394; said point being in the E.L. of Sec. 11, E.T.R.R. Co. Survey Ab. 233;

THENCE N. along the W.B. L. of the Thos. R. Jackson Sur. Ab. 394, at 1250 vrs. pass its N.W. corner, and the S.W. Cor. of Sec. 9, E.T.R.R. Co. Survey, Abst. No. 232, and continuing North along W.L. of said Sec. 9, E.T. R.R. Co. Survey in all 3150 vrs. a corner being the N.W. cor. of said Sec. 9, E.T.R.R.Co.Sur. Ab. 232, also the S.W. cor. of Henry Humphreys survey Abst. No. 332;

THENCE E. 958 vrs. corner, being the S.E.C. of the W/325.8 acre tract out of the Henry Humphreys Survey Abst. No. 332, also being the S.W.C. of the L.Keck 320 acre tract out of the East portion of the Humphreys survey;

THENCE N.  $\frac{1}{2}^{\circ}$  W. 1900 vrs., more or less, crossing the said Humphreys survey, to a point in the North line of said survey, and the South line of the Aaron Ready survey, Abst. No. 644;

THENCE W. 942 vrs. along the S.L. of the Ready survey to its S.W. corner;

THENCE N. 1900 vrs. along the W.L. of said Ready survey to its N.W. corner;

THENCE E. 1900 vrs. along the N.L. of the said Ready Sur. to its N.E. cor. also being the S.E. cor. of the George Leonard Sur. Abst. No. 431;

THENCE N. along the E.L. of said Leonard survey 2568 vrs. to its N.E. cor., being the most Southerly S. E. corner of the Griffin Bayne Survey Abst. No. 15;

THENCE W. 829 vrs. along most Southerly S.L. of the Bayne Survey, 829 vrs. to cor.;

THENCE N. 1166.5 vrs. a point for a cor., said point being the S.E.C. of a certain 200 acre tract out of the McGaha survey, owned or once owned by M.N. Beasley, Estate;

THENCE W. 934 vrs. along Beasley's S.L. to his S.W. cor.;

THENCE N. 1019 vrs. cor., being a point 118 vrs. S. and 700 vrs. W. of the most Northerly N.E. cor. of said Benj. McGaha survey, also being the N.E.C. of the Bond Estate land, of 400 acres, in said survey;

THENCE W. 2006 vrs. along the North line of the 400 acre tract to the East line of the Wm. Donoho Survey, Abst. No. 178, said point being 118 vrs. S. of the most Northerly N.W. cor. of said McGaha survey;

THENCE N. at 118 vrs. pass said Northerly N.W. cor. of the McGaha sur. and the most Northerly S.W. Cor. of the Griffin Bayne survey, continuing in all 448 vrs. a corner;

THENCE E. 816.12 varas a corner;

THENCE N. 271.5 vrs. a corner;

THENCE E. 708 vrs. a corner;

THENCE N. 134.5 vrs. a corner;

THENCE E. at 1099.2 vrs. pass most N.E.C. of a certain 107.84 acre tract once owned by R. I. Dollar, continuing East at 1357.2 vrs. cross the W.L. of the Samuel Little Survey Abstract No. 417, and continuing in all 1537.2 varas, more or less, a corner;

THENCE N. 216 vrs. more or less, to cor. being the S.W.C. of a certain 200 acre tract out of said Samuel Little Sur. Ab. 417 owned by J. E. Lemons;

THENCE E. 1010 vrs. along the S.L. of said Lemons 200 acre tract to its S.E. corner, also being the S.W.C. of a certain 111.6 acre tract in said survey owned by T. H. Hodges;

THENCE N.  $0^{\circ} 57'$  E. 1738 vrs. along Hodges 111.6 acre tract to its N.W. corner;

THENCE E. at 348 vrs. pass Hodges N.E.C., continuing East at 837 vrs. pass the N.E.C. of a certain 150 acre tract in said Little Survey owned by L. S. Dennis et al, and continuing in all 1116 vrs. a cor.; being an inner ell corner of the Samuel Little survey Abst. No. 417, and also the S.W. corner of the Fines Robertson survey Abst. No. 620;

THENCE N. along W.L. of a certain 383 acre tract in the S.W. corner of the Robertson survey, in the name of L. S. Dennis et al, 1696 vrs. to the N.W. corner of said Dennis tract; being in the W.B.L. of said Robertson survey;

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THENCE E. 1275 vrs. along N.L. of said Dennis 383 acre tract to its N.E. corner also the S.E.C. of the Salmon Est. 421 acre tract in said survey;

THENCE N. 1218 vrs., more or less, a corner, being in E.L. of said Salmon 421 acre tract, and also the S.W.C. of the S.E. Howard Est. 640.57 acre tract in said Robertson survey;

THENCE E. along S.L. of said Howard 640.57 acre tract, 1475 vrs. to cor. in E.L. of the Fines Robertson survey;

THENCE N. along E.L. of the Robertson survey, at 715 vrs. pass the S.W. cor. of the Thomas Scott Survey Abst. No. 661, continuing N. 2550 vrs. a corner in W.L. of the Scott survey, also being the N.W. C. of a certain 268.9 acre tract in the name of S. D. Howard;

THENCE E. along N.L. of said Howard 268.9 acre tract, 875 vrs. to his N.E. corner;

THENCE S. 1218.20 vrs., more or less, a corner in E. L. of the Howard tract, also being the S.W.C. of the T.M. York Est., 80 acre tract in said survey;

THENCE E. along York's S.L. 875 vrs. his S.E.C., being in the E.L. of the Thomas Scott survey, also being in the most Westerly West line of the John Moss Survey Abst. No. 462, being a point 886 vrs. North of said Moss's S.W. corner.

THENCE N. 575.6 vrs. cor., being N.W.C. of Quillen Est., 45 acre tract in said Moss survey;

THENCE E. 663 vrs. along Quillen's N.L. a cor.; being SEC of W. C. Skinner 50 acre tract in the said Moss survey;

THENCE N. at 367 vrs. pass the SEC of the Cemetery 7.7 acre tract in said survey, and continuing N. at 510 vrs. more or less, a corner, being the N.E.C. of said cemetery, and also in the S.L. of a certain 56 acre tract in said Moss survey owned by H. M. Fox;

THENCE E. 308 vrs., more or less, a cor. being the SEC of said Fox 56 acre tract, also being a point in the West line of the tract known as the town of Spanish Fort, as per plat in Vol. A page 676 of the Deed Records of Montague County, Texas;

THENCE N. 295 vrs. along E.L. of said 56 acre tract, a cor.;

THENCE W. 174 vrs. an inner cor. of the 56 acre Fox tract;

THENCE N. 107 vrs. cor. on most Southerly N.L. of the John Moss survey, also being the S. Line of the Thos. Berryhill sur. Ab. 42, said point being 775.5 vrs. E. of the S.W. cor. of the Berryhill Sur.;

THENCE E. 174.5 vrs. to corner being the S.E. cor. of said Thos. Berryhill survey also an inner cor. of the John Moss Sur. Ab. 42;

THENCE N. 524 vrs., more or less, cor. on E.L. of the Berryhill survey;

THENCE S. 75° E. 190 vrs. along the North line of a road;

THENCE E. 530 vrs. a corner;

THENCE N. 45 vrs. cor. in said road;

THENCE E. 380 vrs. a corner;

THENCE S. 6° W. 46 vrs., along said road a corner;

THENCE E. 804 vrs. pass the S.E.C. of a certain 423 acre tract in the Moss Survey owned by Lula Bouldin, and continuing East in all 1465 vrs., a corner in E.L. of said Moss survey, and W.L. of J. A. Rich survey Abst. No. 1356;

THENCE N. along the W.B. L. of the J. A. Rich survey, 1620 vrs. more or less, to the North corner of said Rich survey, also being a point on the South bank of Red River;

THENCE following the meanders of the South bank of Red River approximately as follows:

S. 37° E. 801 vrs. a cor.; S. 900 vrs. a corner: S 26° W. 1100 vrs. a cor., being the most Southerly cor. of said J. A. Rich sur. Ab. 1356;

THENCE continuing in a general Southwesterly direction along the bank of Red River, about S. 29° W. 486 vrs., more or less, to the N.E.C. of the J. H. D. Terral Survey, Abst. No. 1444;

THENCE continuing along Red River, and the most Easterly survey line of the J. H. D. Terral Survey, as follows:

S. 29° W. 497 vrs.; S. 12° W. 649 vrs.; S. 15° E. 503 vrs. said point being the most Southerly corner of said Terral survey, and being a point 800 vrs. S. 62° E. from the Northerly N.E.C. of the Oscar F. Leverett Survey, Abst. No. 432;

THENCE in a general Southeasterly direction along Red River and along the portion of said Leverett survey joining the river, 500 vrs., more or less, to the N.W. cor. of the Ramon Trevinio Survey Abstract No. 731;

THENCE along the South line of the River, and the North line of the Trevinio survey as follows:

S. 48½° E. 356 vrs.; S. 71° E. 384 vrs.; S. 74° E. 318 vrs.; N. 67° E. 290 vrs.; N. 73½° E. 180 vrs.; N. 84° E. 210 vrs.; S. 89° E. 100 vrs., more or less;

THENCE S. 12½° E. along N.E. line of said Trevinio Survey, 824 vrs. to its S.E. corner;

THENCE in a general Easterly and Southeasterly direction along the South bank of Red River, and the most Northern and Northeasterly lines of the John H. Tyler Sur. No. 1, Abst. No. 1658, the John H. Tyler Sur. No. 3, Abst. No. 1659, and the J. H. Tyler Sur. No. 2 Ab. 1652, and the Francisco Escobar Survey Abst. No. 216, to the N.E.C. of said Escobar Survey, same being the place of beginning.

No error or discrepancy in the foregoing field notes shall adversely affect the validity of the Authority or the exercise of any power of the Authority granted herein, it being hereby found and determined that all of the territory and taxable property contained within such boundaries will be benefited by the works and improvements of the Authority.

Sec. 3. For the accomplishment of any one or more of the purposes outlined in Section 1. of this Act, the Authority shall be and is hereby empowered to co-operate with any agency, representative, instrumentality or department of the Federal Government for the purpose of acquiring the funds necessary to carry out the objectives of this Act.

Sec. 4. In exercising the power for which the Authority is created, it shall have all of the authority conferred by General Law upon water control and improvement districts, including, but not limited to, the power to construct, acquire, improve, maintain and repair dams or other structures and the acquisition of land, easements, properties, or equipment which may be needed to utilize, control and distribute any storm and flood waters that may be impounded, diverted, or controlled by the Authority. The exercise of the power of eminent domain shall not extend beyond the boundaries of the Authority, as defined herein.

In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline,

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all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority or such subordinate District.

Sec. 5. It shall not be necessary for the Authority to have a hearing for exclusions of land or for the confirmation of its organization.

Sec. 6. For the accomplishment of any one or more of the purposes for which the Authority is created, the Authority may issue bonds, in the manner hereinafter provided, for the purposes of acquiring the funds necessary to furnish land, easements or permanent improvements thereon. It is hereby found and determined that all of the lands and other property, included within the boundaries of the District will be benefited by the District and its improvements, works and measures to be constructed and accomplished and that the District is created to serve a public use and benefit. No election shall be necessary for the purpose of confirming its organization. The ad valorem plan of taxation shall be used by the District. The District shall use for tax purposes the same valuations for the property within the District as that carried on the County tax rolls for State and County purposes. For the purpose of maintaining the structures, channeling or other works or improvements constructed by the Authority, districts, or others in co-operation with the Authority, the Authority shall have the power to levy and assess a maintenance tax, provided, however, that no such maintenance tax shall be levied until approved and authorized by a majority of the resident qualified property tax-paying voters participating at an election called for that purpose. In calling the election, the Directors shall specify the maximum rate of tax which is sought to be levied, and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation to the electors herein above described.

The election shall be called and notice given in the same manner as authorized hereunder for a bond election, and may be held simultaneously with such bond election, but nothing herein shall prevent the calling of subsequent maintenance tax elections to establish or increase the amount of tax should the Directors find such election is required.

Sec. 7. If bonds are authorized by the electorate under the provisions of Section 6 of this Act, the Directors may, at the time of selecting a plan or plans of taxation, also authorize the pledging of the revenues of the District to the payment of such bonds.

Sec. 8. The Authority, upon the adoption of the plan or method of taxation, may call future hearings (in the same manner as for the adoption of the original plan) to consider a change in the method of taxation, but once bonds are approved by the Attorney General or District Court, the political subdivision issuing those bonds may not thereafter change its plan of taxation.

Sec. 9. In addition to the powers granted under the provisions of Sections 6, 7, and 8 of this Act, the Authority shall have the power to issue bonds secured by a pledge of revenues, taxes or both as provided by General Law for water control and improvement districts.

Sec. 10. All bonds issued by the Authority shall be issued in the same manner and with the same terms upon the same conditions and with the same consideration and provision as under the General Law governing water control and improvement districts. Such bonds may be refunded as provided by the law adopted in Section 11.

Sec. 11. Except as modified or supplemented by the provisions of this Act all laws or parts of laws now in effect or hereafter adopted, as well as those amendatory or supplemental to the General Laws pertaining to water control and improvement districts are adopted by reference as though set out at length herein, and such laws shall govern the Authority.

Sec. 11a. The rights of the District to impound water shall be subject to prior grants or permits issued by the Board of Water Engineers.

Sec. 12. The Board of Directors of the Authority shall be comprised of nine (9) persons. Immediately after this Act becomes effective the following named persons, shall be the Directors of the Authority and shall constitute the Board of Directors of said Authority: Roy Pollock, Nocona, Texas; Charlie Howard, Route 3, Nocona, Texas; Clyde Cash, Saint Jo, Texas; Neal Thompson, Saint Jo, Texas; Grady Fooshee, Nocona, Texas; Clyde Russell, Nocona, Texas; Leo Newland, Bonita, Texas; Harold Lane, Nocona, Texas; Doyle Ice, Bonita, Texas.

The Board of Directors herein appointed shall serve until their successors have been duly elected and qualified. The first three (3) Directors named above shall serve until the second Wednesday in January A.D. 1962, and the following three (3) Directors shall serve until the second Wednesday in January, 1963, and the last three (3) Directors named above shall serve until the second Wednesday in January, 1964. An election for Directors shall be held on the second Wednesday in January of each year and as herein provided. Three (3) Directors shall be elected in each annual election, in succession to their expired terms as heretofore provided.

The Directors of the Authority of any subordinate District shall be landowners within the Authority and reside within Montague County and shall retain such status during their tenure in office or vacate such office.

Sec. 13. All property owned by the District hereby created shall be liable for ad valorem taxes levied by county, cities, and school districts.

Sec. 14. If any clause, sentence, Section or provision of this Act is found, by a court of competent jurisdiction, to contravene the provisions of the State or Federal Constitution, the invalidity of that portion shall not affect the remainder of this Act, it being the intention of the Legislature to enact the provisions herein contained despite such partial invalidity. Acts 1961, 57th Leg., p. 525, ch. 252.

Emergency. Effective May 27, 1961.

Art. 8280—253. Repealed. Acts 1961, 57th Leg., 1st C.S., p. 60, ch. 23, § 26. Eff. Aug. 12, 1961

Article 8280—253, derived from Acts 1961, 57th Leg., p. 550, ch. 257, created the Kimble County Water Control and Improvement District No. 1. See, now, art. 8280—265.

Art. 8280—254. Rio Grande Palms Water District

Section 1. Under and pursuant to the provisions of Article XVI, Section 59 of the Constitution, a conservation and reclamation district within Cameron County, Texas, is hereby created and incorporated, to be known as "Rio Grande Palms Water District," hereinafter sometimes referred to as the "District." Said District is situated within the Espiritu Santo and San Pedro DeCarricitos Grants of land in said County. The boundaries thereof are as follows:



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Beginning at the northeast corner of what is commonly known as Noriega Tract out of Share No. 1, Espiritu Santo Grant, Cameron County, Texas, said corner being the intersection of the east line of Share No. 1 with the center line of 80 ft., Iowa Gardens County Road for the northeast corner of this Tract.

THENCE with the north line of this Tract and the center line of Iowa Gardens Road, N 80 deg. 41' 30" W 4037.9 ft.,

THENCE N 80 deg. 44' W 6546.4 ft.,

THENCE N 80 deg. 33' W 5117.6 ft.,

THENCE N 80 deg. 52' W 2343.8 ft. for the northwest corner of this Tract being also the northwest corner of Sams Porter Tract in San Pedro de Carricitos Grant.

THENCE with the west line of Sams Porter Tract S 9 deg. 41' W 2711.5 ft. to an intersection with the center line of 100 ft. State Highway No. 77,

THENCE running parallel to and 100 ft. perpendicularly distant from center line of St.L.B. & M.R.R. with the center line of 100 ft. State Highway, S 45 deg. 30' E 2045.8 ft. to P. C. of right of curve 5380.0 ft. radius,

THENCE with said curve 1023.5 ft. to an intersection with the west line of Barreda Gardens Subdivision, same being the division line between the San Pedro de Carricitos and Espiritu Santo Grants,

THENCE with the west line of Barreda Gardens Subdivision, S 8 deg. 10' 30" W 801.32 ft. to the southwest corner of Lot 2 in Block 8;

THENCE S 35 deg. 00' E 37.1 ft. to the southwest corner of Lot 3 in Block 8 and at 1437.1 ft; the southeast corner of Lot 36 in Block 8;

THENCE N 55 deg. 00' E 333.6 ft. to a point on the east line of said Lot 36 in Block 8;

THENCE S 35 deg. 00' E 600.0 ft. to a point on the east line of Lot 41 in Block 8;

THENCE S 74 deg. 02' 30" W 349.8 ft. to the southwest corner of Lot 42;

THENCE S 35 deg. 00' E 1058.0 ft.;

THENCE S 15 deg. 57' 30" E 893.2 ft.;

THENCE S 77 deg. 52' W 319.0 ft. to the northwest corner of Lot 30 in Block A;

THENCE S 12 deg. 08' E 565.2 ft.;

THENCE S 77 deg. 57' E 703.1 ft. to a point on the southeast corner of Lot 30 in Block A;

THENCE N 10 deg. 43' E 298.3 ft.;

THENCE S 79 deg. 17' E 258.0 ft.,

THENCE N 55 deg. 00' E 208.8 ft. to a point on the southeast corner of Lot 12 in Block A and at 608.8 ft. a point on the east right-of-way Line of Highway,

THENCE S 35 deg. 00' E 63.5 ft. to P. C. of a 1 deg. 01' 30" curve;

THENCE with said curve a distance of 316.4 ft. to P. T. thereof;

THENCE S 31 deg. 55' E 2843.1 ft. to the southernmost corner of Lot 41 Block 9 Barreda Gardens Subdivision,

THENCE crossing the railroad right-of-way and Highway right-of-way S 58 deg. 05' W 290.0 ft. to a point on the southeast line of Lot 52 in Block 10,

THENCE crossing Lots 53, 54, 55, 56, 57 and 58 of Block 10, 600.0 ft. to a point on the northline of Lot 59 of Block 10,

- THENCE with the north line of said Lot 59 S 58 deg. 05' W 345.6 ft.,  
THENCE S 31 deg. 55' E 55 ft.,  
THENCE S 58 deg. 05' W 50 ft. to the southeast corner of Lot 1 in Block 10 and at 720.9 ft. a point on the south line of said Lot 1,  
THENCE N 82 deg. 30' W 3335.0 ft. to a point on the southwest corner of Lot 15 of Block 11,  
THENCE N 7 deg. 30' E along the east line of Lot 14 and the west line of Lot 15, Block 11 a distance of 615.0 ft. to a point which is N 7 deg. 30' E 45.0 ft. from the northeast corner of Lot 14 of said Block 11;  
THENCE running parallel to and 45 ft. perpendicularly distant from the south line of Lots 7, 8, 9, 10, and 71 of Block 11 a distance of 3105.0 ft. to the southwest corner of Lot 71;  
THENCE S 37 deg. 16' W 478.9 ft. to a point on the west line of the Barreda Gardens Subdivision,  
THENCE with said west line of Barreda Gardens, S 8 deg. 10' 30" W 1377.4 ft.,  
THENCE S 7 deg. 24' 30" W 1465.7 ft.,  
THENCE S 82 deg. 30' E 19.6 ft.,  
THENCE S 08 deg. 10' 30" W 13,728.6 ft.;  
THENCE S 21 deg. 02' E 196.7 ft.,  
THENCE S 51 deg. 30' E 152.0 ft.,  
THENCE S 63 deg. 25' 30" E 339.0 ft.,  
THENCE S 8 deg. 03' W 23.0 ft.;  
THENCE S 8 deg. 10' 06" W 3818.6 ft.;  
THENCE S 10 deg. 44' 31" E 4385.4 ft. to the northeast corner of Lot 21 of Block 16,  
THENCE with the north line of said Lot 21, S 79 deg. 15' 29" W 757.1 ft.,  
THENCE S 10 deg. 31' 07" E 2494.0 ft. to the southwest corner of Lot 36 in Block 16,  
THENCE S 10 deg. 39' E 355.7 ft. to P. C. with a radius of 955.4 ft.,  
THENCE along said curve 497.5 ft. to P. T.,  
THENCE S 40 deg. 30' E 89.8 ft.,  
THENCE N 65 deg. 09' E 1041.4 ft.,  
THENCE S 33 deg. 14' E 2010.0 ft. to the south side of Cameron County Floodway,  
THENCE S 30 deg. 10' E 5766.4 ft. to P. C. with a radius of 711.3 ft.,  
THENCE along said curve 1117.3 ft. to P. T.,  
THENCE S 59 deg. 50' E. 996.6 ft., and at 1078.0 ft. a point on the west right-of-way line of the Military Highway,  
THENCE S 52 deg. 37' W 816.6 ft.,  
THENCE S 54 deg. 17' W 1046.8 ft.,  
THENCE S 31 deg. 09' E 1513.6 ft.,  
THENCE S 39 deg. 20' 30" E 727.5 ft.,  
THENCE S 7 deg. 36' W 1228.5 ft. to a point on the bank of the Rio Grande;  
THENCE along said bank of Rio Grande N 70 deg. 43' E 692.4 ft.,  
THENCE N 65 deg. 23' E 605.4 ft.,  
THENCE N 7 deg. 28' E 741.5 ft.,

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- THENCE N 87 deg. 54' E 548.0 ft.,  
 THENCE N 8 deg. 10' E 518.0 ft.,  
 THENCE N 32 deg. 06' W 562.0 ft.,  
 THENCE N 37 deg. 05' W 557.0 ft.,  
 THENCE N 31 deg. 25' W 830.0 ft.,  
 THENCE N 31 deg. 25' W 614.5 ft., and at 654.7 ft. a point on the north-east corner of Lot 27 of Block 18,  
 THENCE N 56 deg. 00' E 40.0 ft. crossing the Military Highway,  
 THENCE N 59 deg. 50' E 1026.1 ft. to P. C. with a radius of 911.3 ft.,  
 THENCE along said curve 1431.5 ft.,  
 THENCE N 30 deg. 10' W 5764.1 ft. to the south side of Cameron County Floodway and at 6224.1 ft. the north side of said floodway,  
 THENCE N 33 deg. 14' W 1550.0 ft. to P. C. with a radius of 1532.5 ft.,  
 THENCE along said curve 217.3 ft.,  
 THENCE N 15 deg. 34' W 67.6 ft.,  
 THENCE N 10 deg. 44' 31" W 7165.2 ft.,  
 THENCE N 08 deg. 10' 06" E 3931.6 ft.,  
 THENCE S 69 deg. 11' E 43.0 ft.,  
 THENCE N 8 deg. 03' E 85.0 ft. to P. C. with a radius of 200.0 ft.,  
 THENCE along said curve a distance of 242.2 ft.,  
 THENCE N 61 deg. 21' W 393.0 ft. to P. C. with an angle of 69 deg. 30',  
 THENCE along said curve a distance of 133.4 ft.;  
 THENCE N 8 deg. 09' E 11,618.8 ft.;  
 THENCE N 7 deg. 24' 30" E 2108.0 ft. to a point on the south line of Lot 66 of Block 11 and at 4748.0 ft. a point on the north line of Lot 69 and the south line of Lot 70 of Block 11,  
 THENCE along said line S 82 deg. 30' E 15.7 ft.;  
 THENCE N 8 deg. 10' 30" E 203.2 ft. to a point in Lot 70 of Block 11;  
 THENCE N 37 deg. 16' E 409.6 ft. to a point 45.0 ft. perpendicularly distant from the south line of Lot 71 of Block 11;  
 THENCE running parallel to and 45.0 ft. distance from the north line of Lots 70, 11, 12, 13, and 14 of Block 11 S 82 deg. 30' E a distance of 2795.0 ft. to a point 45.0 ft. perpendicularly distant from the east line of Lot 14;  
 THENCE S 7 deg. 30' W 615.0 ft. to a point on the south line of Lot 14,  
 THENCE S 82 deg. 30' E 3425.0 ft. to a point on the northeast corner of Lot 2 of Block 10,  
 THENCE N 58 deg. 05' E 770.9 ft. to the west line of Lot 60 of Block 10,  
 THENCE S 31 deg. 55' E 50.0 ft. to the southwest corner of said Lot 60,  
 THENCE N 58 deg. 05' E 435.6 ft. to the west right-of-way line of railroad,  
 THENCE along said right-of-way line N 31 deg. 55' W 700.0 ft. to the southeast corner of Lot 53 of Block 10,  
 THENCE crossing railroad and Highway 77, N 58 deg. 05' E 200.0 ft. to the southwest corner of Lot 42 in Block 9,  
 THENCE along the west line of Lots 43, 44, 45 and 46 of Block 9 S 31 deg. 55' E 400.0 ft.,  
 THENCE from the southwest corner of Lot 46 Block 9, N 58 deg. 05' E 435.6 ft. to the southwest corner of Lot 33 Block 9.

THENCE along the west line of Lots 32 and 31 Block 9 S 31 deg. 55' E 1000.0 ft. to the northwest corner of Lot 30 and northeast corner of Lot 57 of Block 9,

THENCE along north line of said Lot 57 S 58 deg. 05' W 435.6 ft. to the northwest corner of Lot 57;

THENCE with the southwestern line of Lots 57 to 80 inclusive of Block 9, S 31 deg. 55' E 2813.2 ft. to the southwest corner of Lot 80 of Block 9,

THENCE S 31 deg. 54' E 1805.6 ft. to a 1 deg. 02' curve,

THENCE along said curve, a distance of 1059.5 ft.,

THENCE N 47 deg. 57' E 6170.4 ft. to the east line of Share No. 1,

THENCE along the east line of Share No. 1 N 7 deg. 32' E 12,739.8 ft. to the place of beginning and containing 4893.39 acres more or less.

Sec. 2. The District shall have and exercise, and is hereby vested with all of the rights, powers, privileges and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to Water Control and Improvement Districts created under authority of Section 59, Article XVI of the Constitution, but to the extent that the provisions of any 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 incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 3. The management and control of the District is hereby vested in a Board of Directors which shall have all of the powers and authority conferred and imposed upon Boards of Directors of Water Control and Improvement Districts organized under the provisions of Chapter 25, Acts of the Thirty-ninth Legislature passed in 1925 and amendments thereto, as incorporated in Title 128, Chapter 3A of Vernon's Civil Statutes of the State of Texas and amendments thereto. The Board of Directors shall be composed of five (5) members who own land in the District, but they need not reside in the District. In the event, and to the extent that any of the provisions of the general laws referred to in this Section are in conflict with or inconsistent with any of the provisions of this Act relating to the powers, authority and duties of the Board of Directors and its members, the provisions of this Act shall prevail. The County Judge of Cameron County is hereby authorized and empowered to appoint five (5) persons qualified under this law to serve as directors of the District until their successors shall have been duly elected and shall have qualified. The first election of directors shall be held on the second Tuesday in January, 1962, in accordance with the provisions of Section 37 of Chapter 25, Acts of the Thirty-ninth Legislature, as amended by Section 6 of Chapter 107 of the Acts of the First Called Session of the Fortieth Legislature, as carried forward in Article 7880-37 of Vernon's Civil Statutes of the State of Texas, and laws amendatory thereof and supplemental thereto.

Sec. 4. Bonds may be issued by the District pursuant to a resolution or resolutions adopted by the Board of Directors, when the proposition authorizing the bonds shall have first been submitted to the property tax-paying voters of such District and adopted by not less than a majority of such qualified voters voting at such election. The District may issue bonds thus authorized for any and all purposes permitted to Water Control and Improvement Districts, including, but without limitation of purposes not specified, the following:

(a) The improvement of rivers, creeks, streams, arroyos, and resacas, to prevent overflow, to furnish access to land in the District, to permit

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navigation of such water or irrigation of lands in the District, or in aid of such purposes;

(b) The acquisition of water rights, the construction or acquisition by purchase or otherwise, and maintenance of pools, lakes, reservoirs, dams, pipelines, canals and waterways, pumps, pump houses and all other useful equipment, machinery and facilities, for the purpose of irrigation, drainage, conservation or navigation or in aid thereof. Such purpose including the purchase of an existing irrigation or conservation system.

Such bonds may be issued to mature serially or otherwise as may be determined by the Board of Directors, the maximum maturity date not to exceed forty (40) years, and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum. The District may exchange bonds for property to be acquired for the use and benefit of the District. Interest to accrue on the bonds for a period not to exceed three (3) years from their date may be appropriated and paid from the proceeds from the sale of the bonds.

No bonds shall be issued by the District until the record supporting such bonds and the bonds shall first have been approved by the Attorney General. Bonds thus approved shall be registered in the office of the Comptroller of Public Accounts. Bonds thus approved by the Attorney General after sale by the District shall be fully negotiable instruments and shall be incontestable.

The bonds of the District may be refunded, without the necessity of an election, either by the issuance and delivery to holders of refunding bonds in lieu of the outstanding bonds or through the sale of refunding bonds and the use of the proceeds for retiring the outstanding bonds, provided that the average annual interest rate of the refunding bonds, calculated to maturity shall not be greater than the average interest rate of the bonds refunded, calculated to maturity, and provided the maximum maturity of the refunding bonds shall not exceed forty (40) years.

The resolution or resolutions authorizing the issuance of the bonds may contain such covenants which in the discretion of the Board of Directors are necessary to assure the creation and maintenance of proper reserves and the payment of the principal of and interest on the bonds. Provisions of the law pertaining to the issuance of bonds by Water Control and Improvement Districts when not in conflict with the provisions of this Act shall be applicable.

Sec. 5. Whenever bonds shall have been voted within the District in accordance with the provisions of law the Board of Directors shall levy a continuing ad valorem tax upon all property within the District sufficient in amount to pay the interest on such bonds and the principal thereof as such interest and principal respectively mature and to create and maintain such reserves as may be required in the resolution or resolutions authorizing the issuance of such bonds, and the Board of Directors of the District shall annually determine and fix, or cause to be determined and fixed the rate of ad valorem tax to be assessed and collected for such year upon all property within said District in an amount sufficient for such requirements of principal and interest and to create and maintain such reserves, including an amount sufficient to pay the expenses of assessing and collecting such tax, and for anticipated delinquencies in tax payments.

Sec. 6. The District shall have authority to acquire all property real and personal within or outside of the District which within the discretion of the Board of Directors is needed in accomplishing the objectives of the District and to facilitate the acquisition of property it shall have all of the powers of eminent domain available to water control and improvement districts under the general law.

Sec. 7. When authorized by an election called and held as provided by laws relating to Water Control and Improvement bond elections, (except that a petition shall not be required) the Board of Directors of the District may levy an ad valorem tax against all taxable property in the District for the purpose of maintaining and operating the works and facilities of the District.

Sec. 8. Ad valorem taxes for the payment of bonds and interest thereon and for the payment of maintenance and operation costs, if voted prior to October 1, 1961, may be levied for the year 1961.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59, Article XVI of the Constitution, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provision, including the conservation and utilization of water, finds that all of the land included therein will be benefited thereby, and that no proceedings for the exclusion of land included herein are necessary or required, and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. The District shall not have authority, however, to exercise the right of eminent domain outside the boundaries of the District established herein.

Sec. 10. 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, re-routing, 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, lowering, re-routing, or change in grade of 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. Acts 1961, 57th Leg., p. 691, ch. 324.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 8280—255. Brown County Water Control and Improvement District—Holiday Hills**

Section 1. Under and pursuant to the provisions of Article XVI, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Brown County, Texas, to be known as "Brown County Water Control and Improvement District-Holiday Hills," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

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Sec. 2. The District shall comprise all of the territory contained within the following described area and being in Brown County, Texas:

BEGINNING at the southwest corner of the L. Latham Survey in Brown County, Texas;

THENCE Due West 33 feet to an iron pin;

THENCE S 0 deg. 13' E 1538 feet to an iron pin;

THENCE N 88 deg. 08' W 3358 feet to an iron pin;

THENCE N 0 deg. 07' W 2517 feet to an iron pin at the northwest corner of a 199.88 acre tract in the J. J. Clelland Survey, continuing 35 feet to an iron pin, a distance of 2552 feet in all on this bearing;

THENCE S 89 deg. 33' W 758 feet to an iron pin;

THENCE N 63 deg. 26' W 112 feet to an iron pin in the South line of the Kinney Survey;

THENCE S 89 deg. 51' W 2067 feet to an iron pin for a corner;

THENCE N 0 deg. 06' W 1392 feet to an iron pin in the West line of this tract;

THENCE N 2 deg. 02' E 2242 feet to an iron pin in said West line;

THENCE N 0 deg. 28' W 541 feet to an iron pin at the southwest corner of a 3 acre church site;

THENCE N 89 deg. 32' E 361.5 feet to an iron pin at the southeast corner of said church site;

THENCE N 0 deg. 28' W 361.5 feet to an iron pin at the northeast corner of said church site;

THENCE S 89 deg. 32' W 361.5 feet to an iron pin at the northwest corner of said church site, and a point in the West line of this tract;

THENCE N 0 deg. 28' W 2551.5 feet to an iron pin for the most northerly point of this tract;

THENCE S 57 deg. 31' E 407 feet to an iron pin;

THENCE S 56 deg. 20' E 445 feet to an iron pin;

THENCE S 48 deg. 00' E 468 feet to an iron pin;

THENCE S 37 deg. 37' E 479 feet to an iron pin;

THENCE S 0 deg. 30' W 347 feet to an iron pin;

THENCE S 89 deg. 25' E 432 feet to an iron pin;

THENCE S 66 deg. 23' E 387 feet to an iron pin;

THENCE S 67 deg. 43' E 405 feet to an iron pin;

THENCE S 51 deg. 10' E 416 feet to an iron pin;

THENCE S 38 deg. 47' E 283 feet to an iron pin;

THENCE S 38 deg. 51' W 602 feet to an iron pin;

THENCE Due West 498 feet to an old iron pipe in a stone mound for a point which is the northwest corner of the W. M. Green Survey and the southwest corner of the J. B. McCulloch Survey No. 3 in Brown County, Texas;

THENCE Due South, along the West line of the said W. M. Green Survey, continuing along the West line of the M. P. Jones Survey to the southwest corner of the said Jones Survey, a total distance of 4314 feet to an iron pin;

THENCE N 89 deg. 33' E along the South line of the said Jones Survey, 4129 feet to an iron pin at the southwest corner of a 47.20 acre tract of land in the L. Latham Survey;

THENCE N 0 deg. 15' E 1620 feet to an iron pin at the northwest corner of said 47.20 acre tract;

THENCE N 89 deg. 35' E 1277 feet to an iron pin at the northeast corner of the said 47.20 acre tract, which point is in the west line of Texas State Highway No. 279;

THENCE in a generally northerly and northwesterly direction along the westerly right-of-way line of said Highway No. 279 a distance of 6188 feet, more or less, to the point of intersection with the southeasterly shore line of Lake Brownwood at the 1425 foot contour line of said lake;

THENCE northeasterly a distance of 100 feet, more or less, to the point of intersection of the easterly right-of-way line of said Highway No. 279 and the said 1425 foot contour line of Lake Brownwood, said point being the most westerly corner of a certain 23 acres of land out of the J. D. Kuykendall Survey and the A. B. Culverson Survey, both in Brown County, Texas, and being that same 23 acres of land which was conveyed by Jesse H. Turner to Raymond A. Phillips, et ux. as recorded in Vol. 454, Page 83, of the Deed Records of Brown County, Texas;

THENCE in a northeasterly direction with the meanders of the southeasterly shore line of Lake Brownwood, along said 1425 foot contour line, a distance of 1327.8 feet, more or less, to a stake and stone mound set in said 1425 foot contour line at the most northerly corner of the said 23 acre tract of land;

THENCE continuing with the shore line of Lake Brownwood along said 1425 foot contour line, the following bearings and distances:

S 37 deg. 35' E 62.5 feet;

N 78 deg. 56' E 206.67 feet;

S 50 deg. 21' E 94.72 feet;

S 74 deg. 31' E 116.67 feet;

S 05 deg. 23' W 275.83 feet;

S 16 deg. 20' E 264.44 feet;

S 42 deg. 20' E. 251.67 feet;

N 18 deg. 00' E 59.17 feet;

S 70 deg. 43' E 34.17 feet;

S 00 deg. 44' E 116.39 feet;

N 01 deg. 20' E 413.06 feet;

N 56 deg. 58' E 70.28 feet; and

S 72 deg. 09' E 254.16 feet to a stake set in the shoreline of Lake Brownwood in the said 1425 foot contour line for a corner;

THENCE S 00 deg. 15' W 1993 feet to a stake for a corner;

THENCE S 38 deg. 23' W 378.61 feet to a stake set in the easterly right-of-way line of said Highway No. 279;

THENCE in a southerly and southwesterly direction along the easterly right-of-way line of the said Highway No. 279 a distance of 3495 feet, more or less, to a point in said right-of-way line which lies N 89 deg. 43' E a distance of 1363 feet, more or less, from the southwest corner of the L. Latham Survey in Brown County, Texas;

THENCE S 89 deg. 43' W a distance of 1363 feet, more or less, to the southwest corner of the L. Latham Survey and the place of beginning, containing in all approximately 674.67 acres of land, and being situated entirely in Brown County, Texas.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District (Brown County Water Control and Improvement District-Holiday Hills) will be benefited by the works and projects which are to be accomplished



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by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59 of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 3 A. It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of said District, and the right of said District to issue bonds or refunding bonds, or to pay the principal and interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI of the Constitution, but to the extent that the provisions of any 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. It shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the exclusion of lands or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 5. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct or purchase or construct or acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services, and the District may exercise any of the rights, powers, and authorities granted in this Act, including the right of eminent domain, within or without the boundaries of the District but only within the boundaries of Brown County, Texas, and the District may issue its bonds or refunding bonds for such purposes and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 6. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he owns taxable property in the District and resides in the State of Texas, but such Directors do not have to reside within the boundaries of the District nor reside within Brown County, Texas. Such Directors shall subscribe to the Constitutional Oath of Office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum. Immediately after this Act becomes effective, the following named persons shall be the Directors of said District and shall constitute the Board of Directors of said District: H. L. Chamberlain, Herbert McClure, Dr. R. B. Jons, Floyd Skirlock

and L. B. Sikes, all residing within the State of Texas. If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume their duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two named Directors aforementioned shall serve until the second Tuesday in January, 1962, or as herein provided, and the following three named Directors shall serve until the second Tuesday in January, 1963, or as herein provided. An election for the election of Directors shall be held on the second Tuesday in January of each year beginning in 1962, and as herein provided. Two Directors shall be elected in each even numbered year and three in each odd numbered year. The yearly elections shall be ordered by the Board of Directors. Failure to call an election for Directors will in no way affect the legal status of the District or the Board of Directors or the individual Directors or the right of said Board of Directors to act or function and the Directors shall serve until an election is held under the provisions of this law and the succeeding Directors have been duly elected or appointed and have duly qualified. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president and a vice president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint all necessary engineers, attorneys, fiscal agents, managers and employees. The Board shall adopt a seal for the District.

Sec. 7. Bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District to be most advantageous reasonably obtainable, but none of said bonds or refunding bonds shall be sold for less than ninety per cent (90%) of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety per cent (90%) of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified. Bonds and refunding bonds of the District shall be submitted to and for approval by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and when such bonds or refunding bonds have been issued by the District and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal, and binding obligations and shall be incontestable for any cause.

Sec. 8. All bonds and refunding bonds of the District shall be and are hereby declared to be legal and authorized investments for banks,

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savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 9. The provisions of Article 7880-77b, Vernon's Civil Statutes, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election.

Sec. 10. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution and the District shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 11. 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, re-routing 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, re-routing, 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, lowering, 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.

Sec. 12. Brown County Fresh Water Supply District No. 1, previously created and established over part of the territory comprising the District herein created and established, and said Brown County Fresh Water Supply District No. 1, having no outstanding indebtedness, liabilities or obligations, is hereby and herenow abolished and shall cease to exist for all purposes on the effective date of this Act and the governing body of said Brown County Fresh Water Supply District No. 1 is likewise abolished for all purposes and shall cease to exist on the effective date of this Act. Acts 1961, 57th Leg., p. 780, ch. 363.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 8280—256. Escondido Watershed District

Section 1. District Created. Pursuant to and as expressly authorized by Section 59, Article XVI of the Constitution of the State of Texas and in addition to all other districts into which the State has been divided here-

tofore, there is hereby created a conservation and reclamation district to be known as "Escondido Watershed District" (hereinafter referred to as "District"), which shall be recognized to be a governmental agency, a body politic and corporate, and a political subdivision of this State.

Sec. 2. District's Powers. The District herein created shall be and it is hereby empowered to control, store and distribute the waters and floodwaters within the District for the conservation, preservation, reclamation and improvement of the soil and lands or in aid thereof within the District; to carry out flood prevention measures to prevent or aid in the prevention of damage to land and soil and the fertility thereof; to engage in land treatment measures to prevent deterioration, erosion and loss of land and soil; to carry out preventive and control measures within the District; to construct, acquire, improve, carry out, maintain, repair and operate dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures) and for agricultural and land treatment measures and for agricultural phases of the conservation, development, utilization and disposal of water within the District and to purchase or acquire other facilities and equipment necessary in connection therewith and to engage in activities necessary to carry out these functions; to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interest therein within the District necessary to carry out the purposes of this Act and to maintain, administer, and improve any properties acquired; to purchase or acquire land, easements or rights-of-way within the District necessary to carry out the purposes of this Act; to co-operate with other conservation districts, county officials, conservation officials and personnel of the county, State and Federal Government, State Soil Conservation Board, State Agricultural Department, Secretary of Agriculture of the United States, and other county, State and Federal agencies and departments in order to carry out the purposes of this Act. Without limiting the generality of the foregoing the District shall be and it is hereby empowered to co-operate with the State and Federal Government, their agencies, departments and representatives in getting assistance, aid, benefits, grants, credit and money as provided in Public Law 566, Eighty-third Congress, Chapter 656, Second Session H. R. 6788, and amendments thereto, and as may now or hereafter be provided by any laws of the State of Texas, it being the intention of the Legislature that the District herein created shall have all the power and authority necessary to fully qualify and gain the full benefits of any and all such laws which are in any wise helpful in carrying out the purposes for which the District is created and the provisions of all such laws of which the District may lawfully avail itself are hereby adopted by this reference and made applicable to the District.

Sec. 3. Territory Comprising the District. It is expressly determined and found that all of the territory included within the area of the District will be benefited by the works and improvements which are to be accomplished and provided by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas and this Act. The area of the District shall consist of the property and territory embraced within the following boundaries, to wit:

Beginning at the NW corner of the Julius Hedtke 300.2 acre tract in the Willis Orton Original Grant A-221, being W 10 miles of the County Seat, Karnes City, Texas;

THENCE N 50 degrees E 4000.0 ft. to the NE cor. of the said Hedtke Tract in the D. B. Scott Jr. W. line;

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THENCE S 40 degrees E 120.0 ft. to the NW cor. of the J. H. Davidson 100.0 acre tract being in the Julius Hedtke E line;

THENCE N 50 degrees E 5210.0 ft. with the said J. H. Davidson N line to the NE cor. of said tract in the W ROW line of a county rd.;

THENCE N 40 degrees W 3933.3 ft. with the said W line of the county rd. being the E line of the D. B. Scott Jr. 221 acre tract pass the NE cor. of the said Scott tract to the intersection of the W ROW line of the said county rd. and the N ROW line of another county rd., said point being in the E line of the Finley D. Barth E line;

THENCE N 50 degrees E 2880.0 ft. with the said N ROW line of a county rd. to the point of intersection of this ROW line with the E line of the said Willis Orton Original Grant A-221;

THENCE S 40 degrees E 4375.0 ft. with the said Willis Orton E line being the E line of the C. L. Gideon 411.6 acre tract being the southernmost cor. of the B. J. Nichols 414 acre tract;

THENCE S 87 degrees E with the N line of the W. P. Brashear Original Grant A-57 to the intersection of this line and the W line of the Lusardo Martinez Original Grant A-196, 815 ft.; this being the SW cor. of said Grant A-196;

THENCE N 3 degrees E 5733.3 ft. with the W line of the said grant pass the NW cor. of said grant to the NW cor. of the T. G. Butler Original Grant A-429 being the NE cor. of the A. C. Gideon 4.4 acre tract;

THENCE N 89 degrees E 24,083.1 ft. with the N line of the said Grant A-429 pass the W line of the said Francisco Ruiz Original Grant A-9 and with the S ROW line of a county rd. being the N line of the D. C. Coldeway 155 acre tract to the NE cor. of this tract;

THENCE S 3 degrees W 2275.0 ft. with the E line of the said Coldeway tract to the SE cor. of said tract in the NE line of the Rudolph Voight 140 acre tract;

THENCE S 87 degrees E 12,384.4 ft. with the Rudolph Voight N line pass his NE cor. with the N. H. Finch 200 acre tract N line cross a county rd. along the Combs and Browne 322 acre tract N line to the E line of the Ruiz Grant A-9 being the NE cor. of the said 322 acre tract;

THENCE S 3 degrees W 1200.0 ft. with the Sattler E line to a point E line of the Combs and Browne tract to the NW cor. of the Dora Conrads 75 acre tract;

THENCE S 87 degrees E 5634.0 ft. with the Dora Conrads N line across a county rd. with the R. M. Sattler N line to the NE cor. of this tract in the W ROW line of the Kenedy to Karnes City Hy.;

THENCE S 3 degrees W 1075.0 ft. with the said Ruiz E line being the in said ROW line;

THENCE N 45 degrees E 6,025.0 ft. across said highway to the J. D. Ruckman SW cor. and with the J. D. Ruckman S line pass the SW cor. of the W. W. Browne tract being the SE cor. of the J. D. Ruckman tract with the S line of the W. W. Browne tract to the SE cor. of said tract being the NE cor. of the E. J. Smolik tract and the NE cor. of the J. Poitevent Original Grant A-323;

THENCE N 45 degrees W 1,500.0 ft. with the said Browne E line being the O. E. Moore W line across the S.P.R.R. ROW to the NW cor. of the Moore tract in the E line of the Browne tract being the NW cor. of the Andreas Soto Original Grant A-260;

THENCE N 45 degrees E with the said Moore N line being the N line of the said Grant A-260 across a county rd. to the intersection of the W line of the R. W. and Prudie D. Derum Original Grant A-439;

THENCE N 3 degrees E 7,185.0 ft. with the said W line of the A-439 Grant to the N cor. of said Grant being the N cor. of the Annie Bailey 56.57 acre tract;

THENCE S 45 degrees E with the E line of the said A-439 Grant pass the SE cor. of same being the N cor. of the William E. Howth Grant A-144 with the E line of same to the S cor. of the said A-144 Grant in the N line of the said A-260 Original Grant; 5,200.0 ft.;

THENCE N 45 degrees E 545.0 ft. with the said A-260 Grant N line to the NE cor. of the A. M. Bailey 225.5 acre tract being the NW cor. of the S. M. Elder 214.5 acre tract;

THENCE S 45 degrees E with the E line of the A. M. Bailey tract being the W line of the said Elder tract pass a N cor. of the Claude Jennings tract to an interior cor. of the Claude Jennings tract;

THENCE N 45 degrees E with the Claude Jennings N line 1676.4 ft. with the Jennings N line to the NE cor. of same;

THENCE S 45 degrees E 3,058.3 ft. with the Claude Jennings E line to the S cor. of the said Claude Jennings tract in the N line of the Edna Wicker 159.4 acre tract;

THENCE N 45 degrees E 1833.3 ft. with the Edna Wicker N line to the NE cor. of same being the NW cor. of the E. Elder 95 acre tract;

THENCE S 45 degrees E 2000 ft. with the said Edna Wicker E line to the N side of a county rd. being the SE cor. of the Edna Wicker tract;

THENCE S 45 degrees W 700.3 ft. with the S line of the Wicker tract being the N ROW line of a county Rd.;

THENCE S 45 degrees E 4895.0 ft. with the David Banduen 165 acre tract to the intersection of this line with the NW ROW line of a county Rd. being the SE cor. of the David Banduen tract;

THENCE S 11 degrees W 1966.6 ft. with the N ROW line of said road past the Burlie Burriss East corner to a point in the SE line of the Burlie Burriss 37 acre tract.

THENCE S 45 degrees E 3366.6 ft. across the said rd. with the W. J. Green W line to the SE cor. of same being in the S line of the J. B. Dupree Original Grant A-86;

THENCE N 45 degrees E 2,320.0 ft. with the S line of the said A-86 Grant being the N line of the John Huth and Carl Houck to the NE cor. of same;

THENCE S 45 degrees E 3325.0 ft. with the Houck E line being the P. R. Goff W line to the SE cor. of the Houck tract being the SW cor. of the Goff tract on the N ROW line of a county rd.;

THENCE N 45 degrees E 4366.6 ft. with the N ROW line being the S line of the P. R. Goff 220 acre tract to a point in the P. R. Goff S line;

THENCE S 45 degrees E 7366.6 ft. across said county rd. to the NE cor. of the Valda E. Ruhmann 808 acre tract and with the E line of said Ruhmann tract being the W ROW line of a county rd. across the county rd. to the S ROW line of said rd. being in the N line of the K. L. Handy 259.2 acre tract;

THENCE N 45 degrees E 4410.0 ft. with the N line of the K. L. Handy tract pass the common cor. of the Handy tract and the Bertha B. Ruhmann 333.8 acre tract to the NE cor. of said Ruhmann tract being the NW cor. of the N. E. Colbath et al 677.6 acre tract;

THENCE S 45 degrees E 3585.0 ft. with the common line between the said Ruhmann and Colbath tracts to a SW cor. of the Colbath tract in the Ruhmann line;

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THENCE N 45 degrees E 1733.7 ft. with the Colbath line to an interior cor. of the Colbath tract;

THENCE S 45 degrees E 1666.6 ft. with the Colbath and Ruhmann common line to an interior cor. of the Ruhmann tract and a S cor. of the Colbath tract;

THENCE S 45 degrees E 4320.0 ft. with the said Colbath tract to the W bank of the San Antonio River;

THENCE down the meanders of the San Antonio River S 1 degrees W 1422.7 ft.; S 25 degrees W 475.0 ft., S 3 degrees E 866.6 ft.; S 59 degrees 30 minutes E 1566.6 ft.; S 25 degrees E 2500 ft.; S 50 degrees W 1560.0 ft.; S 17 degrees W 566.6 ft.; S 49 degrees E 851.0 ft.; N 80 degrees E 3178.5 ft.; N 43 degrees E 600 ft.; N 2 degrees W 466.6 ft.; N 40 degrees W 500 ft.; N 50 degrees E 1080.0 ft.; S 81 degrees E 558.6 ft.; S 7 degrees E 655.0 ft.; S 29 degrees W 1005.0 ft.; S 5 degrees E 866.8 ft.; to the NE cor. of the Ruth Ingram 1000 acre tract on the S ROW line of a county rd.;

THENCE S 45 degrees W 9482.4 ft. with the N line of the Ruth Ingram tract and the S line of said County rd. to the NW cor. of said Ruth Ingram tract being the E ROW line of a county rd.;

THENCE S 34 degrees E 5485.0 ft. with the said E ROW line pass the John Smolik NW cor. to the SE cor. of the Della Tips 2037.5 acre tract across the county rd.;

THENCE S 42 degrees 30 minutes W 10,233.3 ft. across the said county rd. to the Della Tips SE cor. and with the Della Tips S line to the SW cor. of said tract;

THENCE N 45 degrees W 4675.0 ft. with the SW line of the Della Tips tract pass the SE cor. of the H. H. Kerpeck tract to the NE cor. of said Kerpeck tract;

THENCE S 45 degrees W with the said Kerpeck N line to the NW cor. of said tract across a county rd. and with the S ROW line of said rd. to a cor. in said rd.; 2378.4 ft. in all;

THENCE N 46 degrees W 1616.6 ft. across said county rd. and with the E ROW line of said rd. being the W line of the L. K. Thigpen 201.24 acre tract to a point opposite S cor. of the C. Kerpeck tract across said county rd.;

THENCE N 64 degrees W 1491.2 ft. across said county rd. pass the said S cor. of the Kerpeck tract and with the Kerpeck S Line to a cor. of the Kerpeck tract;

THENCE N 44 degrees W 1118.9 ft. with the Kerpeck W line to the NW cor. of said tract in the S ROW line of a county rd.;

THENCE S 42 degrees W 2442.5 ft. with the said S ROW line across a county rd. to the W ROW line of a county rd. being the SE cor. of the Annie M. Loesch tract;

THENCE S 45 degrees W 771.3 ft. to the SW cor. of the said Loesch tract;

THENCE N 45 degrees W 1927.4 ft. with the said Loesch W line to an interior cor. of said tract;

THENCE S 45 degrees W 2249.7 ft. with the Annie M. Loesch S line pass the W cor. of the said Loesch tract being the SE cor. of the A. M. Green 175 ac. tract and with the S line of said Green tract to the S cor. of said tract in the Verita and F. H. Korth 159.5 ac. tract E line;

THENCE S 46 degrees E 1883.6 ft. with the Korth E line to the SE cor. of same;

THENCE S 45 degrees W 2731.5 ft. with the said Korth S line pass the SW cor. of same to the W ROW line of a county rd.;

THENCE N 46 degrees W 1181.2 ft. with the W line of said county rd. to the SE cor. of the Temple Stapleton 50.2 ac. tract;

THENCE S 45 degrees W 1157.1 ft. with the Temple Stapleton S line to the S cor. of said Stapleton tract;

THENCE N 45 degrees W 745.9 ft. with the Stapleton SW line to an anterior cor. of said tract;

THENCE S 45 degrees W 2313.9 ft. with the Temple Stapleton S line pass the SW cor. of same and with the E. Schroeder S line pass the Common cor. between the said Schroeder SW cor. and the L. Roach SW cor. with the L. Roach S line to the SW cor. of the said Roach<sup>1</sup> tract;

THENCE N 45 degrees W 932.5 ft. with the Roach W line to the NW cor. of the Roach tract being in the S line of the Mrs. E. A. Johnson 100 ac. tract;

THENCE S 45 degrees W 1157.1 ft. with the S line of the said Johnson tract across the Overby rd. to the W ROW line of same;

THENCE N 45 degrees W 2957.6 ft. with the W ROW line of said county rd. to the intersection of this ROW line with the Raymond Whipple E line;

THENCE S 6 degrees E 3895.2 ft. with the E line of the Raymond Whipple tract to the S cor. of same;

THENCE S 45 degrees W with the M. L. Chesnutt 409.0 ac. tract S line across a county rd. to the SE cor. of the M. L. Chesnutt 155.5 ac. tract 2248.7 ft.;

THENCE N 46 degrees W 2488.9 ft. with the said 155.5 ac. tract E line to the NE cor. of said tract;

THENCE S 44 degrees W with the said Chesnutt N line pass the Joe Krawietz SW cor. pass the Chesnutt NW cor. being the E. Strawn SW cor. with the Floyd Swoap N line pass the J. O. Russell SW cor. to the SW cor. of the M. T. Buckaloo 66.5 ac. tract 5177.8 ft. in all;

THENCE S 46 degrees E 1759.8 ft. with the said Swoap W line being the E ROW line of a county rd. to a point opposite the SE cor. of the R. A. David 108 ac. tract;

THENCE S 49 degrees W 2185.4 ft. with the David S line to the SW cor. of same;

THENCE N 45 degrees W 1181.3 ft. with the David W line across the old Hy. 181 to the W ROW line of same;

THENCE S 21 degrees and 10 minutes W 899.6 ft. with the said ROW line to the S. cor. of the H. H. Schuenemann 123.42 ac. tract;

THENCE N 45 degrees W 1800.2 ft. with the Schuenemann W line to an interior cor. of same;

THENCE N 82 degrees 45 minutes W 4155.3 ft. with the H. H. Schuenemann S line pass the SW cor. with the W. T. Homeyer S line to the SW cor. of the Homeyer 255 ac. tract;

THENCE S 3 degrees W 2146.9 ft. with the Mable Davis E line to the S cor. of same being the N cor. of the W. S. Grunewald 79 ac. tract;

THENCE S 14 degrees E 288.0 ft. with the Grunewald E line to the SE cor. of same;

THENCE S 45 degrees W 6900.0 ft. with the Grunewald SE line to the SW cor. of same in the E ROW line of a county rd. across said county rd. and with the NW ROW line of the county rd. pass the R. W. Jones



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et al. 268 ac. tract and the L. W. Scott 124.73 ac. tract to the SW cor. of the L. W. Scott 62.37 ac. tract;

THENCE N 45 degrees W 3395.0 ft. with the Scott W line pass the NW cor. of same to a point in the James H. Wright W line being the SE cor. of the John Polson 136 ac. tract;

THENCE S 45 degrees W 3933.3 ft. with the John Polson S line to the SW cor. of same in the E ROW line of county rd.;

THENCE N 45 degrees W 6366.6 ft. with the said county rd. E line pass the John Polson NW cor. being the J. M. Ruhmann SW cor., pass the J. M. Ruhmann NW cor. and across State Hy. 72 to the SW cor. of the John Beck 587.5 ac. tract;

THENCE S 46 degrees 15 minutes W with the NW ROW line of St. Hy. 72 pass the O. L. Bagwell SW cor. pass the Tom M. Leggett SW cor. to the SW cor. of the John W. Regmund 735.85 ac. tract;

THENCE N 45 degrees W 6100.0 ft. with the W line of the said Regmund tract to the NW cor. of same being the SW cor. of the Geo. Heider 205.4 ac. tract;

THENCE N 20 degrees W 4200.0 ft. with the Geo. Heider W line across a county rd. to the SW cor. of the S. E. Crews 2643 ac. tract;

THENCE S 70 degrees W 1943.5 ft. across a county rd. and with the S line of the Ida Carroll 112 ac. tract to the SW cor. of same;

THENCE N 20 degrees W 2625.0 ft. with the Ida Carroll W line to the NW cor. of same in the Herbert Rudolph S line;

THENCE S 70 degrees W 1876.8 ft. to the SW cor. of the Herbert Rudolph tract in the E ROW line of a county rd.;

THENCE N 20 degrees W with the E ROW line of the County rd. pass the NW cor. of the Herbert Rudolph tract to the NW cor. of the E. Rudolph 197.5 ac. tract;

THENCE N 15 degrees W 4075.0 ft. with the said E ROW line of the county rd. to the NW cor. of the Edgar M. Ladewig 305.9 ac. tract, across county rd. to a point in the S line of the A. N. Wells 292.5 ac. tract;

THENCE S 70 degrees W 2093.6 ft. with the Wells S line to the SE cor. of same;

THENCE N 20 degrees W 3825.0 ft. with the Wells W line being the E ROW line of a county rd.;

THENCE N 70 degrees E 1771.4 ft. with the Wells N line to the SE cor. of the B. W. Klingeman tract in the N line of the Wells tract;

THENCE N 20 degrees W 3666.6 ft. with the common line between the said Klingeman tract and the Alex Kowald 200 ac. tract across a county rd. to the S line of the Fred Klingeman tract;

THENCE S 70 degrees W 1563.5 ft. with the Klingeman S line to the SW cor. of same;

THENCE N 20 degrees W 3000.0 ft. with the said Klingeman W line to the NW cor. in the R. Best S line;

THENCE S 70 degrees W 2953.5 ft. with the said Best S line to the SW cor. of same;

THENCE N 20 degrees W 5225.0 ft. with the Best W line being the W line of the James Bradberry A-24 Original Grant to the NW cor. of the Best tract;

THENCE N 70 degrees E 2451.4 ft. with the N line of the Best tract to the SE cor. of the Horace L. Smith 238 ac. tract in the Best N line;

THENCE N 20 degrees W 4450.0 ft. with the said Smith E line being the D. B. Scott W line pass the NE cor. of the said Scott tract across a county rd. to the SW cor. of the Alvin Ripps 169.5 ac. tract being the SE cor. of the Vallie Jarvis tract;

THENCE S 70 degrees W 9468.5 ft. with the N ROW line of the said county rd. pass the Vallie Jarvis SW cor. across a county rd. pass the H. L. Smith SW cor. pass the Howard Stanfield S cor. to the R. L. Gideon SW cor.;

THENCE N 40 degrees W 8333.3 ft. with the Gideon W line and the E line of a county rd. pass the Herbert Weigang SW cor. pass the Julius Hedtke SW cor. to the place of beginning, containing 80,158.23 acres of land, more or less.

Sec. 4. No Confirmation Election, Hearing on Exclusion of Land or Plan of Taxation Necessary. It being hereby found and determined that all of the land included within the boundaries of the District will be benefited and that the District is created to serve a public use and benefit, it shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the exclusion of lands or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 5. Governing Body of District. (a) All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he is at least twenty-one (21) years of age, resides in and owns land in the territorial limits of the District. Such Directors shall subscribe to the Constitutional oath of office and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective, the following named persons shall be the Directors of said District, and shall constitute the Board of Directors of said District: D. E. Moore, Martin Schaefer, Willie Lieke, A. J. Neumayer, and H. H. Schuenemann, all residing and being owners of land within said District. If any of the aforementioned persons shall become incapacitated or otherwise not be qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act.

(c) The first two (2) named Directors in Section 5 (b) above shall serve until the first Tuesday in April, 1962, and the following three (3) named Directors shall serve until the first Tuesday in April, 1963. An election of Directors shall be held on the first Tuesday in April of each year beginning in April 1962, and as herein provided. Two (2) Directors shall be elected in each even numbered year and three (3) in each odd numbered year. The yearly election shall be ordered by the Board of Directors. Notice of the election shall be published in a newspaper of general circulation in said District one (1) time at least thirty (30) days before the election. The election order shall state the time, place and purpose of the election, and the Board of Directors of said District shall appoint a presiding judge who shall appoint an Assistant Judge and two (2) Clerks to assist in holding the election. Only qualified electors residing in the District shall be entitled to vote at said election. The candidates receiving the highest number of votes shall be declared elected.

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The returns of the election shall be made to and canvassed by the Board of Directors of said District, who shall enter an order declaring the results of the election.

(d) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than ten (10) residents of the District who are qualified to vote at the election. Such petition shall be presented to the secretary of the Board of Directors. The petition shall be presented on such date as will allow not less than ten (10) full days between the date of presentation and the date of election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by majority vote of the remaining Directors.

(f) The Directors may receive such fees for attending Board meetings as may be established by unanimous vote of the Board, but not to exceed Ten Dollars (\$10) for each meeting and no more than Twenty Dollars (\$20) for meetings held in any one calendar month. Said Directors shall also be entitled to receive reimbursement for actual expenses incurred in attending to District business provided that such services and expenses are approved by the Board.

(g) The Board of Directors of the District shall elect from its number a President and a Vice President, and such other officers as in the judgment of the Board are necessary. The President shall be the chief executive officer, and the presiding officer of the Board, and shall have the same right to vote as any other director. The Vice President shall perform all duties and exercise all power conferred by this Act upon the President when the President is absent or fails or declines to act. The Board shall also appoint a Secretary and a Treasurer who may or may not be members of the Board and it may combine those offices. The Board may adopt a seal for the District.

(h) The Board of Directors, from time to time, shall be authorized to make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created; and may employ a general manager, attorneys, accountants, engineers, or other technical or nontechnical employees or assistants; fix the amount and manner of their compensation and provide for the payment of all expenditures deemed essential to the proper operation and maintenance of the District and its affairs.

Sec. 6. Exercise of Power of Eminent Domain. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements within the District by condemnation in the manner provided by Title 52 Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. 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, re-routing 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, re-routing, 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, lowering, re-routing, or change in grade or alteration of construc-

tion in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 7. District May Issue Bonds. For the purpose of providing dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures), for the purchase and acquisition of lands, easements and rights-of-way and for agricultural phases of conservation, development and utilization and disposal of water, and for all other necessary facilities, equipment and properties in connection therewith and for the improvement, maintenance, repair and operation of same and for carrying out any other powers or authority conferred by this Act, the District is empowered to issue negotiable bonds payable from ad valorem taxes to be levied on all taxable property within the District. It shall be the duty of the Board of Directors to levy annual taxes sufficient to pay the bonds and interest thereon as such bonds and interest become due. Pending the use of bond proceeds for the purpose for which issued, the Board of Directors may invest same in obligations of or guaranteed by the United States of America. Such bonds shall be authorized by resolution of the Board of Directors, after having been voted as provided in Section 8, hereof, and shall be issued in the name of the District. Said bonds shall be signed by the President, attested by the Secretary, with the seal of the District impressed thereon. The interest coupons shall be executed by facsimile signatures of the said President and Secretary and the statute authorizing facsimile signatures and seals shall be applicable to the bonds if so provided in the resolution or resolutions authorizing same. They shall mature serially or otherwise in not to exceed forty (40) years from their date and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonable obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registerable as to principal or as to both principal and interest. Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act. From proceeds from the sale of the bonds the District may set aside an amount for the payment of interest to accrue during construction and one (1) year thereafter and a reserve interest and sinking fund. Proceeds from the sale of the bonds may also be used for the payment of any and all expenses incurred in accomplishing the purposes for which this District is created including but not limited to the payment of attorneys' fees, fiscal agents' fees, engineers' fees, and to pay the cost of printing and issuing the bonds.

Sec. 8. Bond Elections. No bonds, except refunding bonds, shall be issued unless authorized at an election at which only the qualified electors who reside in the District, and who own taxable property therein, and who have duly rendered the same for taxation, shall be qualified to vote at said election, and unless a majority of the votes cast at said election is in favor of the issuance of the bonds. Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the

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form of the ballot and the presiding judge for each voting place. The presiding judge serving at the voting place or places shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. Notice of elections for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for two (2) consecutive weeks, the first publication to appear not less than fourteen (14) days prior to the date assigned for the election. Except as herein otherwise provided the General Laws relating to elections shall be applicable.

Sec. 9. Refunding Bonds Authorized. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon, without an election. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders 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 resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal and interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 10. Bonds to be Approved by Attorney General of Texas. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. If he finds such bonds have been properly authorized in accordance with the Constitution and this Act he shall approve such bonds and the same then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds shall be valid, binding and enforceable obligations of the District and shall be incontestable for any cause.

Sec. 11. Taxes and Tax Elections Authorized. The Board of Directors may upon a favorable majority vote of the qualified property tax-paying electors of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate works, plants and facilities deemed essential or beneficial to the District and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of the maintenance, operation and administration of the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. All taxes levied by the District for any purpose shall constitute a lien on the property against which levied and limitation shall not bar the enforcement or collection thereof. In calling an election for taxes under this Section 11, the Board of Directors shall specify the maximum rate of tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

Sec. 12. Levy, Assessment and Collection of Taxes. The District shall have all the rights, powers, duties and functions and shall observe the procedures, insofar as the same may be applicable and not in conflict with this Act, in the levy, equalization and collection of ad valorem taxes as are provided for Water Control and Improvement Districts under Chapter 25, Acts of the Regular Session of the Thirty-ninth Legislature of Texas in 1925, as heretofore or hereafter amended and to provide anything necessary in the accomplishment of the foregoing in carrying out the purposes of this Act.

Sec. 13. District Depository. The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds shall be remitted to the bank or banks of payment of principal of and interest on outstanding bonds of the District. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Sec. 14. Bonds Eligible for Investment and to Secure Deposits. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, saving banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas, and for all public funds of the State of Texas, or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the 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 appurtenant thereto.

Sec. 15. District and Bonds Exempt From Taxation. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 16. District Declared Essential. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All the terms and provisions of the Act are to be liberally construed to effectuate the purposes herein set forth. Acts 1961, 57th Leg., p. 786, ch. 364.

<sup>1</sup> So in enrolled bill.  
Emergency. Effective June 16, 1961.

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**Art. 8280—257. Upper Leon River Municipal Water District**

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, a conservation and reclamation district is hereby created to be known as "Upper Leon River Municipal Water District" (hereinafter called "District") which shall be a governmental agency and a body politic and corporate.

Sec. 2. The District shall comprise all of the territory which was contained within the Cities of Comanche, DeLeon, Dublin, Gorman, Hamilton, Hico and Stephenville, on April 1, 1961; provided, however, that no defect in the definition of the boundaries of any of said cities or in any past or future proceedings for the annexation of territory to any of said cities shall affect the validity of the District hereby created or any of its powers or duties. Each of said cities is hereby designated a "Potential City." Circumstances under which any of said cities may be eliminated from the District are set forth in Section 17 hereof. It is hereby found that all of the land thus included in said District will be benefited by the water storage rights to be acquired, and improvements to be acquired and constructed by said District.

Sec. 3. (a) All powers of the District shall be exercised by a Board of Directors (hereinafter sometimes called the "Board"). Originally, two Directors shall be appointed by a majority vote of the governing body of each of the Potential Cities contained in the District. Any such city may be eliminated from the District under circumstances set forth in Section 17 hereof and from the date of such occurrence shall lose its representation on the Board. In appointing the first Directors for a city, the governing body of such city shall appoint one (1) Director who shall serve to and including May 31, 1962, and one (1) who shall serve to and including May 31, 1963. In May, 1962, and in May of each year thereafter, the governing body of such city shall appoint one (1) Director for the two (2) year term beginning on June 1st of that year. Each Director shall serve for his term of office as herein provided and thereafter until his successor shall be appointed and qualified. No person shall be appointed a Director unless he resides in and owns taxable property in the city from which he is appointed. No member of a governing body of a city, and no employee of a city shall be appointed as Director. Such Directors shall subscribe the constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000.), the cost of which shall be paid by the District. A majority shall constitute a quorum.

(b) Each Director shall receive a fee of Twenty Dollars (\$20.), for attending each meeting of the Board, provided that not more than Forty Dollars (\$40.) shall be paid to any Director for meetings held in any one (1) calendar month. Each Director shall also be entitled to receive Twenty Dollars (\$20.) per day devoted to the business of the District and to reimbursement for actual expenses incurred in attending to District business, provided that such service and expense are expressly approved by the Board.

Sec. 4. The Board of Directors shall elect from its members a president and a vice-president of the District. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may

or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors, but in no event less than Twenty-five Thousand Dollars (\$25,000.). The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. Until the District shall have authorized the issuance and shall have contracted for the sale of bonds the amount of the official bond of the treasurer may be fixed by the Board of Directors in any amount not less than Five Thousand Dollars (\$5,000.). The Board may elect or appoint such other officers as it may consider necessary, who may or may not be members of the Board. The Board shall appoint and employ all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the District.

Sec. 5. Other territory in Comanche, Coryell, Eastland, Erath, and Hamilton Counties may be annexed to the District in the following manner:

(a) A petition praying for such annexation signed by fifty (50) or a majority of the qualified electors of the territory shall be filed with the Board of Directors of the District. The petition shall describe the territory by metes and bounds or otherwise unless such territory is the same as that contained in a city or town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within such city or town. The provisions of this Section shall be applicable also to Potential Cities named in Section 1 of this Act which may have been eliminated under the provisions of Section 17 hereof;

(b) If the Board of Directors finds: that the petition complies with, and is signed by the number of qualified electors required by the foregoing subsection (a), that the annexation would be to the interest of the territory and the District, and that the District will be able to supply water to the territory, it shall adopt a resolution stating the conditions, if any, under which the territory may be annexed to the District, and requesting the Board of Water Engineers of the State of Texas (or any board or body succeeding substantially to the powers and duties of said Board of Water Engineers) hereinafter called "State Board," to annex said territory to the District. A certified copy of such resolution and of the petition shall be filed with the State Board.

(c) The State Board shall adopt a resolution declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the District, and fix a time and place when and where a hearing shall be held by the State Board on the question of whether the territory will be benefited by the water storage rights, the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the District. Railroad right-of-way which is not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the District is authorized to construct, therefore it is provided that no railroad right-of-way shall hereafter be annexed to the District except such right-of-way as is contained within the limits of an incorporated city or town then or theretofore annexed to the District.

(d) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the qualified electors residing in such territory shall be published one (1) time in a newspaper published within or having general circulation within such territory, designated by the



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State Board, at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner as required or permitted by the petition.

(e) All persons interested may appear at such hearing and offer evidence for or against the intended annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the State Board, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the State Board finds that all of the lands in such territory will be benefited by the present or contemplated water storage rights, improvements, works or facilities of the District, the State Board shall adopt a resolution calling an election in the territory to be annexed stating therein the date of the election, the place or places of holding the same, and appointing a presiding judge for each voting place who shall appoint the necessary assistant judges and clerks to assist in holding the election.

(f) Notice of such election, stating the date thereof, the proposition to be voted upon and the conditions under which the territory may be annexed, or making reference to the resolution of the Board of Directors for that purpose, and the place or places of holding the same, shall be published one (1) time in a newspaper designated by the State Board at least ten (10) days before the day set for the election, and if the newspaper carrying such notice is not published within such territory, additional notice shall be given for the required period by posting copies of the notice of election at three (3) public places therein.

(g) Only qualified electors who reside in the area proposed to be annexed, shall be qualified to vote in said election. Returns of said election shall be made to the State Board.

(h) The State Board shall canvass the returns of the election and adopt a resolution declaring the results thereof. If such resolution shows that a majority of the votes cast are in favor of annexation the State Board shall enter an order annexing said territory to the District, and such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the General Election Law. A certified copy of said order shall be recorded in the deed records of the county in which the territory is situated.

(i) The State Board in calling the election on the proposition for annexation of territory, may include a separate proposition for the assumption of its part of the tax supported bonds of the District, if any, then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the remainder of the District for the payment thereof. All qualified voters who reside in the area proposed to be annexed, and who own taxable property within the District and who shall have duly rendered such property for taxation may vote on the proposition to assume such indebtedness.

(j) Territory annexed after April 1, 1961 to any city contained in the District may be annexed to the District in the following manner:

(1) At any time after final passage of an ordinance or resolution annexing territory to the city, the Board of Directors of the District may issue a notice of hearing on the question of annexing said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing, a description of the area proposed to be annexed, but in lieu of such description of the area the notice may make reference to the annexation ordinance of the city.

(2) The notice shall be published one time in a newspaper having general circulation in the city which made the annexation, such publication to be at least ten days before the date set for the hearing.

(3) If, pursuant to such hearing, the Board of Directors finds that the territory proposed to be annexed will be benefited by the water supply afforded or to be afforded by the District, the Board shall adopt resolution annexing said territory to the District.

(k) After territory is added to the District, the Board of Directors of the District may call an election over the entire District for the purpose of determining whether the entire District as enlarged shall assume the tax supported bonds of the District, if any, then outstanding, and those theretofore voted but not yet sold, and whether an ad valorem tax shall be levied upon all taxable property within the District as enlarged for the payment thereof, unless such proposition is voted along with the annexation election and becomes lawfully binding upon the territory annexed. Such election shall be called and held in the same manner as elections for the issuance of bonds as provided in this Act.

(l) If no newspaper is published in the territory to be annexed, the notices shall be posted in three (3) public places therein.

(m) If any election for the assumption of indebtedness then existing or bonds theretofore voted but not yet issued shall fail to carry by a majority vote, the Board of Directors may, in its discretion, adopt a resolution detaching such territory from the District.

Sec. 6. When any city, the territory of which is hereafter annexed to the District, contains five thousand (5,000) inhabitants or more, according to the most recent Federal Census, the governing body of the city shall appoint one (1) Director for the term ending the following May 31st, and one (1) Director for the term ending one (1) year after the following May 31st, and in May of each year shall appoint one (1) Director for a two (2) year term the same as provided in this Act for Potential Cities originally included in the District. If such city contains less than five thousand (5,000) inhabitants, according to the most recent Federal Census, the governing body of the city shall appoint one (1) Director whose term shall expire the following May 31st, and in May of each second year thereafter shall appoint one (1) Director for a two (2) year term. Whenever such city may later attain a population of five thousand (5,000) or more, according to the Federal Census, it shall thereafter be entitled to two (2) Directors to be appointed as herein provided.

Sec. 7. The District is hereby empowered to acquire any rights in and to all or any part of the conservation storage and storage capacity in the reservoir to be provided by Proctor Dam on the Leon River, now proposed, or any dams and reservoirs, which may be constructed in lieu thereof, as provided in the report of the Chief of Engineers of the Army to the Congress of the United States (House Document 535, 81st Congress, 2nd Session), including without limitation of the generality of the term such conservation storage as may be provided in such recommended structure, if and when such dam is constructed or such dams are constructed, and the right to take water from such reservoir, which said dam will impound of certain storm and flood waters and the unappropriated flow of Leon River and its tributaries, by complying with Chapter 1, Title 128, Revised Civil Statutes, as amended, and pursuant to any contract or contracts which the District may make with Brazos River Authority (hereinafter sometimes called the "Authority") in reference to such rights; the Authority having theretofore made a contract with the

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United States Government (hereinafter called the "Government") for the right to utilize the conservation storage space at Proctor Reservoir. The District is also empowered to construct or otherwise acquire and operate all works, plants and other facilities necessary or useful for the purpose of diverting, further impounding or storing such water, processing it, and transporting it either processed or unprocessed, to cities and others for municipal, domestic and industrial purposes. To the extent permissible under its contract with the Authority and under the contract between the Authority and the Government, the District may dispose of surplus waters under its control for irrigation purposes. As an aid to conserving such water, the District may construct and operate sewage transportation, treatment and disposal plants and related facilities and may make contracts necessary to financing the construction and operation thereof with any city included within the District. No works for the diverting of water from said impounding dam shall be constructed until the plans therefor are approved by the Board of Water Engineers of the State of Texas; provided that none of the powers granted in this Section shall extend outside of Comanche, Coryell, Eastland, Erath, and Hamilton Counties unless another or other cities are annexed by amendment to this law or in the manner prescribed in Section 5.

Sec. 8. For the purpose of carrying out any power or authority conferred by this Act the District shall have the right to acquire land and easements within and without the District in Comanche, Coryell, Eastland, Erath, and Hamilton Counties (including land above the probable high water line around any impounding or diversion reservoir) by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. This District is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors; provided, however, that as against persons, firms, and corporations, or receivers or trustees thereof, having the power of eminent domain, the fee title may not be condemned, but the District may condemn only an easement. Provided, however, that the District shall not have the right to acquire land and easements without Comanche, Coryell, Eastland, Erath, and Hamilton Counties by condemnation.

Sec. 9. 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, re-routing 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, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District."

Sec. 10. Any construction contract requiring an expenditure of more than Five Thousand Dollars (\$5,000.) shall be made after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in the District and designated by the Board of Directors.

Sec. 11 (a). For the purpose of providing a source of water supply, intake facilities, water supply lines, water purification and pumping

facilities, or any of them, for cities and other users for municipal, domestic and industrial purposes, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act including provision of sewage transportation, treatment and disposal plants and related facilities, or for any or all such purposes, the District is empowered to issue its negotiable bonds to be payable from such revenues or taxes or both revenues and taxes of the District as are pledged by resolution of the Board of Directors. Pending the issuance of definitive bonds the Board may authorize the delivery of negotiable interim bonds or notes, eligible for exchange or substitution by use of the definitive bonds.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the District, signed by the president or vice-president, attested by the secretary and have the seal of the District impressed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one (1) or more contracts theretofore or thereafter made or other revenues specified by resolution of the Board of Directors. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the District, after deduction of the amount necessary to pay the cost of maintaining and operating the District and its properties, including provision for prompt payment to Brazos River Authority of any and all obligations assumed by the District on account of acquiring the right to use water stored at Proctor Reservoir and to pay the cost of any facilities provided by Authority in connection with the use of and delivery of water from such reservoir. Within the sole discretion of the Board, the bonds may be issued, secured by the combined revenues of its water properties and its sewage transportation, treatment and disposal facilities, or may be secured by revenues from either of such sources.

(e) For the purposes stated in Section 11 (a) hereof, and subject to the conditions prescribed in Section 14 (a) hereof, the District is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured both by and payable from such taxes and the revenues of the District. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the Board of Directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues which may be available for payment of principal and interest and for creation of any reserve fund

required in such resolution, to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise the rates of compensation for water sold and services rendered by the District which will be sufficient to pay the expense of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise, the rate of compensation for water sold and services rendered by the District which will be sufficient to assure compliance with the resolution authorizing the bonds.

(g) From the proceeds from the sale of the bonds, the District may set aside an amount for the payment of interest expected to accrue during construction and to establish a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this District is created, including expenses of engineering and of issuing and selling the bonds, and the expense of creating and organizing the District.

(h) The District is authorized to cause the investment of all or any part of the proceeds of the bonds before and during the period of construction in obligations of, or in obligations unconditionally guaranteed by, the United States Government.

(i) In the event of a default or a threatened default in the payment of principal of or interest on bonds payable wholly or partially from revenues, any Court of competent jurisdiction may upon petition of the holders of twenty-five per cent (25%) of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the District except income from taxes, employ and discharge agents and employees of the District, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the District without consent or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the Court appointing him. The Court may vest the receiver with such other powers and duties as the Court may find necessary for the protection of the holders of the bonds.

Sec. 12. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the issuance by the District of other bonds and their approval by the Attorney General and the remedies of the holders 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 resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on

the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 13. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers, situated either within or outside of the State of Texas. Another bank likewise qualified may, within the discretion of the Board be selected as co-trustee. Such bonds within the discretion of the Board of Directors may be additionally secured by a deed of trust lien upon physical properties of the District and all franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers and authority for the further security of the bonds. Such trust indenture regardless of the existence of the deed of trust lien may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the owner of properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 14 (a). No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters who reside in the District and who own taxable property therein and who have duly rendered the same for taxation shall participate and unless a majority of the votes cast at said election is in favor of the issuance of the bonds. No election for the issuance of bonds secured either wholly or partially by a pledge of ad valorem taxes shall be ordered until the Board of Directors is able to and does publish, in the manner in this Section prescribed, a summary of the improvements to be financed with the proceeds of bonds to be issued. If at such time the District has not provided facilities for delivering water to any city within the District, and if such summary of improvements does not include provision for delivering water to such city, the District shall cause to be published in such city notice of its intention on a date therein specified to call an election involving the issuance of bonds, wholly or partially secured by a pledge of ad valorem taxes, and containing the summary of the proposed improvements. Such notice shall be published at least once in a newspaper published in or having general circulation in such city, the date of publication being at least fourteen (14) days prior to the date on which the District intends to adopt a resolution ordering such election. The District shall also mail a copy of such notice to the mayor of such city at least fourteen (14) days prior to the date on which the election is to be ordered. If no newspaper is published in such city notice shall be given by posting a copy of such notice of intention at three (3) public places therein for such period of time. If, prior to the date so designated for the calling of the election, the governing body of such city, so notified, shall adopt a resolution to the effect that the District has not provided facilities for delivering water to such city and does not propose to provide the facilities necessary for such purpose with the proceeds from the proposed tax-supported bonds and on a reasonable cost basis; and it is to the best interests of the people of the city that such city be eliminated from the District for all purposes; and seeking withdrawal

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from the District. If, prior to the date designated for such election, a certified copy of such resolution is delivered to the District and to the State Board, the District shall not proceed with the calling of such election until the State Board shall have acted finally upon such request for withdrawal from the District. Upon receipt of the certified copy of the resolution requesting such withdrawal the State Board shall fix a date for a hearing on the request, giving written notice thereof both to the city and to the District. If, at the hearing the State Board finds that no facilities have been made available to the city and that none will become available to the city because of the proposed tax-supported bond issue for the delivery of water to the city, and upon a reasonable cost basis, the Board shall enter an order eliminating the city from the District. The necessity for such hearing will be avoided if the District files with the Board a consent to the elimination of such territory. But if the Board shall find either that such facilities are available or will be provided from the proceeds of the proposed bonds for the providing of such facilities upon a reasonable cost basis, it shall enter an order denying the request for withdrawal. After such order by the State Board shall have been entered, the District may proceed with the ordering of such election with such city either eliminated or retained in its boundaries as may have been prescribed in such order. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. There shall be at least one voting place in each city. Notice of the election shall be given by publishing a substantial copy thereof in one (1) newspaper published in each city contained in the District for two (2) consecutive weeks. The first publication shall be at least twenty-one (21) days prior to the election. In any city in which no newspaper is published, notice shall be given by posting a copy of the resolution in three (3) public places.

(c) The returns of the election shall be made to and canvassed by the Board.

(d) The General Laws relating to elections shall be applicable to elections held under this Section of this Law except as otherwise provided in this Law.

Sec. 15. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city or other governmental agency or district, a copy of such contract and the proceedings of the city or other governmental agency or district authorizing such contract shall also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas he shall approve the bonds and such contracts and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 16. The District is authorized to enter into contracts with Potential Cities, cities which may later be annexed, and others for supplying water to them. The District is also authorized to contract with any Potential City or city to be later annexed, for the rental or leasing of, or for the operation of the water production, water supply, water filtration or purification and water supply facilities of such city upon such consideration as the District and the city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until any bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Sec. 17. No contract under which the District will supply water to a Potential City or to any other city hereafter annexed to the District shall be executed and no tax shall be levied for bonds in any such Potential City or city until such action shall have been authorized at an election held in such Potential City or in such city. Within the discretion of the Board of Directors of the District the first election on the question of executing such contract and the first election as to voting such tax may be held in less than all of the Potential Cities. Until an election is held in a Potential City and until it has voted adversely, it shall remain a Potential City. Whenever an election is held in all Potential Cities or in some of them either for approval of contracts between the respective Potential Cities and the District, or for the voting of an ad valorem tax to pay wholly or partially the principal of and interest on any bonds proposed by the District, and if a majority of the votes cast in one or more of such Potential Cities is against either the executing of such contract or against tax supported bonds, the Board of Directors may adopt a resolution detaching the territory of any such city from the District if the Board finds that it is to the best interest of the District to execute such contracts with the Potential Cities voting favorably to issue bonds payable wholly or partially from taxes, or to execute such contracts and without participation by the Potential Cities thus voting unfavorably, but no territory shall be detached from the District after the issuance of bonds which are payable from revenues or taxes or both, or after the execution of such contracts. Any city thus detached from the District shall be eligible for re-annexation under the provisions of Section 5 hereof. Potential Cities which shall have voted in favor of such contract or tax-supported bond issue, as the case may be, shall after such vote be Constituent Cities, and as such shall remain committed under such vote.

Sec. 18. A component part of the cost to the District of providing a water supply for the several Constituent Cities is the amount District will be obligated to pay to the Authority for the right to use water from the conservation storage space Authority has acquired from the Government. Within the discretion of the Board that obligation to the Authority may be evidenced by a contract with Authority, under which the District will make periodic remittances to the Authority, which the District will consider as operating expenses. To that extent the District's bonds need not be issued.

Sec. 19. (a). Instead of the issuance and sale of District's bonds, as authorized under Section 11 et seq. for the purpose of providing a source of water supply, water supply lines, water purification and pumping facilities, or for any one or more of such items, the District is hereby empowered to make contracts with the Authority, under which Authority may issue and sell its revenue bonds and with the proceeds, will equip such water supply storage facilities, and provide water supply lines, water purification and pumping facilities so as to make possible delivery of treated



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water, or in the alternative raw water, to the Constituent Cities, as Authority is permitted to do under Chapter 194, Acts of the 53rd Legislature. The obligation of the District under any such contract may be secured by a pledge of revenues, or by an ad valorem tax or by both an ad valorem tax and a pledge of revenues. No such contract shall be secured in whole or in part by an ad valorem tax unless the contract shall have been approved at an election held substantially in accordance with the requirements for a bond election as prescribed in Section 14.

(b) Recognizing the fact that under such contract the District will be required to provide the money which Authority will use in paying the principal of and interest on Authority's revenue bonds, and for creating the reserves required under the bond resolution, and that District should have the financial burden of providing a market for Authority's bonds to be issued for the purpose, District shall have the responsibility of employing and compensating engineers, financial advisers and bond counsel who will recommend to Authority the form of the several instruments involved in authorizing, offering, selling and delivering the bonds. To the extent that Authority concludes that it should have the services and advice of independent engineering, financial and legal consultants in reference to the issuance and sale of the revenue bonds, the expense thereof shall be paid from the proceeds of the bonds.

(c) The bonds necessary for the purpose will be authorized and issued by Authority, with approval by the Board. Such bonds will be sold by the Board. Expenditures of the proceeds of the bonds will be made by Authority, in accordance with the contract between the Authority and the District. The contract will incorporate provisions under which vouchers for expenditure will first have been approved by proper representatives of the District.

(d) Such contract will provide for full reimbursement of all of Authority's actual expenses incurred in its performance and for reasonable compensation designed to cover a proper part of Authority's overhead expenses allocated to the performance of the contract.

Sec. 20. Except as provided otherwise in this Act the District shall have all of the powers and corresponding duties prescribed by Section 128, Chapter 2 of the Revised Statutes of Texas, pertaining to water control and improvement districts, but in the event of conflict with any of the provisions of this Act, the provisions of this Act shall prevail.

Sec. 21. (a). The Board of Directors shall designate one (1) or more banks within the District to serve as depository or depositories for the funds of the District. All funds of the District shall be deposited in such depository bank or banks, except that funds pledged to pay principal of and interest on bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the F.D.I.C. they shall be secured in the manner provided by law for the security of county funds; or the resolution or trust agreement, or both, securing the bonds, may require that any or all of such funds be secured by obligations of, or unconditionally guaranteed by, the United States Government.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks in the District to submit applications to be designated depositories. The term of service

for depositories shall be prescribed by the Board. Such notice shall be published one (1) time in a newspaper or newspapers published in the District and specified by the Board.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and in condition to warrant handling of District funds. Membership on the Board of Directors of an officer or Director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the Board shall designate some bank or banks within or without the District upon such terms and conditions as it may find advantageous to the District.

Sec. 22. The District is authorized to acquire water appropriation permits directly from the Board of Water Engineers of the State of Texas; or from owners of permits. The District is also authorized to purchase water or a water supply from any person, firm, corporation or public agency, or from the United States Government or any of its agencies.

Sec. 23. All bonds of the District (and all bonds of Brazos River Authority which are issued for the benefit 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, saving and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the 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 appurtenant thereto.

Sec. 24. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 25. (a) The tax rolls of the Constituent Cities situated within the District, and within territory hereafter annexed, are hereby adopted and shall constitute the tax rolls of the District until assessments and tax rolls shall be made by the District.

(b) Prior to the sale and delivery of District bonds which are payable wholly or partially from ad valorem taxes the Board of Directors shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls and the levy and collection of taxes and delinquent taxes shall be applicable to this District, except that the board of equalization to be appointed each year by the Board of Directors shall consist of one

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(1) member residing in each city then contained in the District. The District may contract with any or all cities in the District for the collection of taxes due the District.

Sec. 26. The Board of Directors of the District shall have the power to adopt and promulgate all reasonable regulations to secure, maintain and preserve the sanitary condition of all water in and to flow into any reservoir owned by the District, or which by contract or otherwise it may control, to prevent waste of water or the unauthorized use thereof, to regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges, along or around any such reservoir or any body of land, or easement owned or controlled by the District. The District shall have the same power to enforce such rules and regulations as is accorded by law to Water Control and Improvement Districts, except that such regulations shall be enforced by duly constituted peace officers.

Sec. 27. The Board of Directors shall file a map and plat of said District, clearly showing its boundaries and limits, with each of the following offices: two (2) copies with the Board of Water Engineers; one (1) copy with the Secretary of State; one (1) copy with the county clerk of each county in which any portion of said District is located. Acts 1961, 57th Leg., p. 908, ch. 405.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 8280—258. Palo Pinto County Municipal Water District No. 1

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a conservation and reclamation district to be known as "Palo Pinto County Municipal Water District No. 1," (hereinafter called "District") which shall be a governmental agency and a body politic and corporate.

Sec. 2. Said District shall contain the territory as hereinafter defined, as follows:

BEGINNING at the Northeast corner of the T. & P. survey # 7, Block "A", East of the Brazos River, Palo Pinto County Abstract # 871, a rock mound for corner, from which a P. O. S. 64 E 11 $\frac{3}{4}$  varas; A P. O. N 38 $\frac{1}{2}$  W 16 varas;

THENCE South along the East line of the T. & P. survey # 7, and the East line of the Mineral Wells Municipal Airport property, 462.2 varas to the Southeast corner of said Airport property for corner;

THENCE West along the South line of said Airport property, 1050.92 varas to corner;

THENCE North 10.7 varas to corner;

THENCE West 311.4 varas to corner;

THENCE South 101.5 varas to corner;

THENCE West 165 varas to corner;

THENCE South 335 varas to corner;

THENCE West 487.68 varas to a point on the East line of the R. Starr Survey, Abstract # 392;

THENCE North along the East line of the R. Starr survey 888.0 varas to his Northeast corner;

THENCE West along the South line of the T. & P. Survey # 15, Block "A", East of the Brazos River, Abstract # 702, and the North line of the R. Starr survey, Abstract # 392 at 1872 varas past the Southwest corner

survey # 15, same being the Southeast corner of the T. & P. survey # 26, Block "A", East of the Brazos River, Abstract # 996, continuing on same course and in all 2530 varas to the Northwest corner of the R. Starr survey Abstract # 392;

THENCE N  $88\frac{3}{4}$  deg. W. along the North line of the James Dimpkins Survey, Abstract # 152, at 1252 varas past the Southwest corner of the T. & P. Survey # 26, same being the Southeast corner of the T. & P. survey # 34, Abstract # 114, continuing on same course and in all 2471 varas to the Northwest corner of the James Dimpkins survey;

THENCE N  $89\frac{1}{2}$  W 730 varas to the Southwest corner of the T. & P. survey # 34, Block "A", East of the Brazos River, Abstract # 999 for corner; same being the Southeast corner of the T. & P. survey # 40;

THENCE North along the East line of the T. & P. survey # 40, Block "A", East of the Brazos River, Abstract # 1053, 480 varas to a point in the East line of said survey # 40 for corner;

THENCE West 1108.22 varas to a point on the East line of the Pollard cemetery for corner;

THENCE South along the East line of said cemetery 50 varas to its Southeast corner;

THENCE West along the South line of said cemetery 144 varas to its Southwest corner;

THENCE North along the West line of said cemetery 144 varas to its Northwest corner;

THENCE East along the North line of said cemetery 144 varas to its Northeast corner;

THENCE North 589.54 varas to a point for corner;

THENCE West 242 varas to a point for corner;

THENCE South along the East line of the City's dump ground property 432 varas to its Southeast corner;

THENCE West and along the South line of said property 393 varas to a point in the East line of the R. Starr survey, Abstract # 408 for corner;

THENCE South along the East line of said Starr survey 432 varas to a point for corner;

THENCE West 324 varas to a point for corner;

THENCE North 864 varas to a point on the North line of said Starr survey for corner;

THENCE East along the North line of the said Starr survey 324 varas to his Northeast corner, for a corner of this;

THENCE North at 713 varas past the Southwest corner of the T. & P. survey # 39, Block "A", East of the Brazos River, Abstract # 718, continuing on same course and in all 2613.8 varas to the Northwest corner of said survey # 39;

THENCE East along the South line of the T. & P. survey # 38, Block "A", East of the Brazos River, Abstract # 1301, 950.4 varas to the  $\frac{1}{2}$  mile marker for corner;

THENCE North along the East line of the West  $\frac{1}{2}$  of said survey # 38, 1900.8 varas to the  $\frac{1}{2}$  mile marker on the North line of said survey # 38 for corner;

THENCE East along the North line of said survey # 38, 752.1 varas to John P. Ritchie's Southwest corner;

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THENCE North along the West line of the said Ritchie's property, 252 varas to his Northwest corner;

THENCE East along the North line of the said Ritchie's property, 197.3 varas to a point on the West line of the T. & P. survey # 31, Block "A", East of the Brazos River, Abstract # 708 for corner;

THENCE North along the West line of survey # 31, 698.4 varas to the Southwest corner of the North  $\frac{1}{2}$  of said survey # 31 for corner;

THENCE East along the South line of the North  $\frac{1}{2}$  of said survey # 31, 1900.8 varas to its Southeast corner for a corner of this;

THENCE South along the East line of survey # 31, 950.4 varas to its Southeast corner;

THENCE East along the North line of the T. & P. survey # 24, Block "A", East of the Brazos River, Abstract # 1281, 950.4 varas to the  $\frac{1}{2}$  mile marker for corner;

THENCE South along the center line of said survey # 24, 1602 varas to a point for corner;

THENCE East 950.4 varas to a point on the East line of said survey # 24 for corner;

THENCE South along the East line of said survey # 24, 334.8 varas to a point for corner;

THENCE S 75 deg. and 43' E. 1961.43 vrs. to a point on the East line of survey # 14 for corner;

THENCE South along the East line of said survey # 14, 466.48 varas to the S. E. corner of the N. E.  $\frac{1}{4}$  of survey # 14, same being the Northeast corner of the Southeast part of survey # 14 for corner;

THENCE West along the North line of the Southeast part of survey # 14, 778.8 varas to its Northwest corner;

THENCE South along the West line of the Southeast part of survey # 14, 950.4 varas to its Southwest corner;

THENCE East along the South line of the Southeast part of survey # 14, 778.8 varas to its Southeast corner; same being the Northeast corner of the T. & P. survey # 15, Block "A", East of the Brazos River, Abstract # 702 for corner;

THENCE South and along the East line of said survey # 15, 950.4 varas to the  $\frac{1}{2}$  mile marker for corner;

THENCE East along the South line of the North  $\frac{1}{2}$  of the T. & P. survey # 6, Block "A", East of the Brazos River, Abstract #'s 1603 and 1857, 1801.4 varas to a point on the South line of the Northeast part of T. & P. survey # 6, for corner;

THENCE South along the East line of the South part of said Survey # 6, and the East line of the Airport property, 950.4 varas to the Southeast corner of said survey # 6, said corner being on the North line of the T. & P. survey # 7, and 85 varas West of its Northeast corner;

THENCE East along the North line of said survey # 7, and the North line of the Airport property, 85 varas to the place of beginning, and containing 6,929.42 acres of land.

It is hereby found and determined that all of the territory and taxable property contained within the area above described will be benefited by the works and improvements of the District.

Sec. 3. (a) All powers of the District shall be exercised by a Board of Directors, each member shall serve for a term of two years except for the first directors appointed initially pursuant to this Act. Immediately

following the effective date of this Act the governing body of the City of Mineral Wells shall appoint five members, two of whom shall serve for a term ending on December 31 next following their appointment and three shall serve until the 31st day of December of the year next following their appointment.

(b) In December following the effective date of this Act and in December of each year thereafter the governing body of the City of Mineral Wells (hereinafter sometimes called the "city") shall appoint a director or directors to succeed the director or directors whose term or terms are about to expire. Any vacancy shall be filled for an unexpired term by the governing body of such city.

(c) Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in and owns taxable property in the District. No member of a governing body of the city, and no employee of the city shall be appointed as director. Such directors shall subscribe the Constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000.00), the cost of which shall be paid by the District. A majority shall constitute a quorum. If any director moves from the District or otherwise ceases to be a director, the governing body of the city shall appoint a director to succeed him, for the unexpired term.

(d) Each director shall receive a fee of not to exceed Ten Dollars (\$10.00) for attending each meeting of the Board, provided that no more than Twenty Dollars (\$20.00) shall be paid to any director for meetings held in any one (1) calendar month. Each director shall also be entitled to receive not to exceed Ten Dollars (\$10.00) per day devoted to the business of the District and to reimbursement for actual expenses incurred in attending to District business provided that such service and expense are expressly approved by the Board.

Sec. 4. The Board of Directors shall elect from its number a president and a vice-president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act, except the president's right to vote. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint necessary engineers, attorneys and other employees, and employ a general manager. The power to employ and discharge employees may be conferred upon the manager. The Board shall adopt a seal for the District.

Sec. 5. Land may be added to the District and become a part thereof upon petition of the owner thereof in the following manner: The owner of the land shall file with the Board of Directors a petition praying that the lands described be added to and become a part of the established District. Said petition shall clearly describe the land and be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the directors and

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may be granted and said land added to the District if same is considered to be to the advantage of the District and if the water supply, facilities and improvements of the District are sufficient to supply the same without injury to the lands of the District. Any such petition which may be granted adding lands to a district shall be filed for record and be recorded in the office of the county clerk of the county in which such land is situated.

Sec. 6. Other territory within Palo Pinto County may be annexed to the District in the following manner:

(a) A petition praying for such annexation signed by fifty (50) or a majority, whichever number is smaller, of the qualified voters of the territory who own taxable property therein and who have duly rendered the same to the city (if situated within a city or town) or county for taxation shall be filed with the Board of Directors of the District. The petition shall describe the territory by metes and bounds or otherwise unless such territory is the same as that contained in a city or town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within such city or town;

(b) If the Board of Directors finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing Subsection, that the annexation would be to the interest of the territory and the District, and that the District will be able to supply water to the territory, or cause water to be supplied to the territory, it shall adopt a resolution stating the conditions, if any, under which territory may be annexed to the District, and shall adopt a resolution declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the District and fix a time and place when and where a hearing shall be held by the Board on the question of whether the territory will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the District or by the other functions of the District. Rights-of-way being used by railroad, light, power, gas utility, or pipeline companies, which are not situated within the defined limits of an incorporated city or town, will not be benefited by improvements, works and facilities which the District is authorized to construct. Therefore, it is provided that no such right-of-way shall hereafter be annexed to the District except such right-of-way as is contained within the limit of an incorporated city or town then or theretofore annexed to the District;

(c) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property in such territory shall be published one (1) time in a newspaper published in the county or counties in which such territory is located, designated by the Board at least ten (10) days prior to date of such hearing. The notice shall describe the territory in the same manner in which it is required or permitted by this Act to be described in the petition;

(d) All persons interested may appear at such hearing and offer evidence for or against the intended annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Board, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Board finds that all of the lands in such territory will be benefited by the present or contemplated improvements, works or facilities of the District, the Board shall adopt a resolution calling an election in the territory to be annexed. Provided, however, that if the Board finds that any of the lands sought to be added to the District will not be bene-

fited by such inclusion, the Board may exclude such lands not to be benefited and shall redefine the boundaries of the proposed lands to be added to include only those lands that will receive benefits;

(e) Notice of such election, stating the date thereof, the proposition to be voted upon and the conditions under which the territory may be annexed, or making reference to the resolution of the Board of Directors for that purpose shall be given as provided herein for elections generally;

(f) Only qualified electors who reside in the territory sought to be annexed shall be qualified to vote in said election. Returns of said election shall be made to the Board;

(g) The Board shall canvass the returns of the election and adopt an order declaring the results thereof. If such order shows that a majority of the votes cast are in favor of annexation the Board shall annex said territory to the District, and such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the General Election Law. A certified copy of said order shall be recorded in the deed records of the county in which the territory is situated;

(h) The Board in calling the election on the proposition for annexation of territory, may include as a part of the same proposition, a proposition for the assumption of its part of the tax-supported bonds of the District then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the rest of the District for the payment thereof;

(i) After territory is added to the District, the Board of Directors of the District in lieu of the election provided for in (h) above may call an election over the entire District for the purpose of determining whether the entire District as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted if any, but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the District as enlarged for the payment thereof, unless such proposition had been voted at the same time as the annexation election and become lawfully binding upon the territory annexed. Such election shall be called and held in the same manner as elections for the issuance of bonds as provided in this Act.

Sec. 7. The District is empowered to develop or otherwise acquire underground sources of water within Palo Pinto County.

Sec. 8. The District is empowered to obtain through appropriate hearings an appropriation permit or permits from the Board of Water Engineers, as provided in Chapter 1 of Title 128, Revised Civil Statutes of 1925, as amended.

Sec. 9. The District is authorized to acquire or construct within or without the boundaries of District within Palo Pinto County a dam or dams and all works, plants and other facilities necessary or useful for the purpose of impounding, processing and transporting water to cities and others for all useful purposes. The size of the dam and reservoir shall be determined by the Board of Directors, taking into consideration probable future increases in water requirements, and the size of the dam shall not be limited by the amount of water initially authorized by the Board of Water Engineers to be impounded therein. No dam or other facilities for impounding water shall be constructed until the plans therefor are approved by the Board of Water Engineers.

Sec. 10. The District is empowered to acquire land and to construct, lease or otherwise acquire all works, plants and other facilities necessary



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or useful for the purpose of producing, diverting, impounding or storing water, collecting, processing such water and transporting it to cities and others for all useful purposes and to construct, lease or otherwise acquire all works, plants and other facilities for the District necessary or useful in processing, transporting and disposing of sewage and industrial and communal wastes. Subject to the terms of any deed of trust issued by the District, the District may sell, trade, or otherwise dispose of any real or personal property deemed by the Board of Directors not to be needed for District purposes.

Sec. 11. (a) The District shall have the right to acquire by condemnation the fee simple title to, easements or rights-of-way in or upon, or other interests in land and other property and easements within and without the boundaries of the District within Palo Pinto County necessary to the exercise of the powers, rights, privileges and functions conferred upon the District by this Act in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain; or at the option of the District in the manner provided by Statutes relative to condemnation by Districts organized under General Law pursuant to Section 59, Article 16 of the Constitution of the State of Texas. Such right of eminent domain shall be exercised only as to properties located in Palo Pinto County. This District is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors. The District shall have the same rights and powers within Palo Pinto County as are conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the 39th Legislature, with reference to making surveys and attending to other business of the District.

(b) 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, lowering, rerouting, 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.

Sec. 12. Any construction contract requiring an expenditure of more than Ten Thousand Dollars (\$10,000.00) shall be made after publication of a notice to bidders once each week for two (2) weeks for sealed bids before awarding the contract. Such bids shall be opened publicly. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper of general circulation in the District and designated or approved by the Board of Directors.

Sec. 13. (a) For the purpose of carrying out any power or authority conferred by this Act, the District is empowered to issue its negotiable bonds to be payable from revenues or taxes or both revenues and taxes of the District as are pledged by resolution of the Board of Directors. Pending the issuance of definitive bonds the Board may authorize the de-

livery of negotiable interim bonds or notes, eligible for exchange or substitution by use of the definitive bonds.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the District, signed by the president or vice-president, attested by the secretary and shall bear the seal of the District. It is provided, however, that the signatures of the president or of the secretary or of both may be printed or lithographed on the bonds if authorized by the Board of Directors, and the seal of the District may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that no sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board of Directors or in the trust indenture or other instrument securing the bonds. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues and income of the District from all sources (other than taxation) after deduction of the amount necessary to pay the cost of maintaining and operating the District and its properties.

(e) The District is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured by and payable from both such taxes and the revenues of the District. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the Board of Directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the District which will be sufficient to pay the expense of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds or the trust indenture, or other instrument securing the bonds. Where bonds payable partially from revenues are issued it shall be the duty of the Board to fix, and from time to time revise, the rate of compensation for water sold and services rendered by the District which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture or other instrument securing the bonds.

(g) From the proceeds from the sale of the bonds, the District may set aside amounts for the payments into the interest and sinking fund and the reserve fund, and such provisions may be made in the resolution authorizing the bonds or the trust indenture or other instrument securing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which this District is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds may be invested in direct obligations of or unconditionally guaranteed by the United States Government maturing in the manner that might be authorized by the resolution authorizing the bonds or the trust indenture or other instruments securing the bonds.

(h) In the event of a default or a threatened default in the payment of principal or of interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the District except taxes, employ and discharge agents and employees of the District, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the District without consent or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture or other instrument securing them may limit or qualify the rights of less than all of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the District's property or income.

Sec. 14. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the revenues pledged to the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the District of other bonds, their security, and their approval by the Attorney General and the remedies of the holders 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 resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 15. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the Trustee may be a bank having trust powers situated either within or outside of the State of Texas. Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the District and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for the payment of

the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the District. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 16. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters residing in the District who own taxable property therein and who have duly rendered the same for taxation shall be allowed to vote, and unless a majority of the votes cast thereat is in favor of the issuance of the bonds. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place may appoint one (1) assistant judge and two (2) clerks to assist in holding such election. Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in the District on the same day of each of two (2) consecutive weeks. The first publication shall be at least fourteen (14) days prior to the date set for the election. If no newspaper is published in the District, notice shall be given by posting a copy of the resolution in three (3) public places.

(c) The returns of the election shall be made to and canvassed by the Board of Directors of the District.

(d) The General Laws relating to elections shall be applicable to elections held under this Section of this law except as otherwise provided in this law.

Sec. 17. (a) After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city or other governmental agency, authority or District, a copy of such contract and the proceedings of the city or other governmental agency, authority or District authorizing such contract may also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and Laws of the State of Texas he shall approve the bonds and such contracts and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

(b) Such bonds shall also be approved by the State Board of Water Engineers in the manner provided by the General Law governing approval of bonds issued by water control and improvement districts.

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Sec. 18. The District is authorized to enter into contracts with cities and others for supplying water and sanitary sewage services to them. The District is also authorized to contract with any city for the rental or leasing of, or for the operation of the water production, water supply, water filtration or purification and water supply facilities and sanitary sewage facilities of such city upon such consideration as the District and the city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Sec. 19. (a) The Board of Directors shall designate one (1) or more banks within the District to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank or banks of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the F.D.I.C. they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks in the District to submit applications to be designated depositories. The terms of service for depositories shall be prescribed by the Board. Such notice shall be in writing and mailed to each bank within the District at least ten (10) days prior to the date fixed for receiving bids.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and are in condition to warrant handling of District funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the Board may designate some bank or banks within or without District upon such terms and conditions as it may find advantageous to the District.

Sec. 20. The District is authorized to acquire water appropriation permits from owners of permits. The District is hereby empowered to lease or acquire rights in and to storage and storage capacity in any reservoir constructed or to be constructed by any person, firm, corporation or public agency or from the United States Government or any of its agencies.

Sec. 21. All 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, guardians, 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, villages, counties, school districts, or other political corporations or subdivisions

of the 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 appurtenant thereto.

Sec. 22. The accomplishment of the purposes stated in this Act is for the benefit of the people of this state and for the improvement of their properties and industries; and the District, in carrying out the purposes of this Act will be performing an essential public function under the Constitution. The District shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 23. (a) The county tax rolls applicable to the territory included in the District are hereby adopted and shall constitute the tax rolls of the District until assessments and tax rolls shall be made by the District.

(b) Prior to the sale and delivery of District bonds which are payable wholly or partially from ad valorem taxes the Board of Directors shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General Laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls and the levy and collection of taxes and delinquent taxes shall be applicable to this District.

Sec. 24. (a) The Board of Directors of the District shall have the power to adopt and promulgate all reasonable regulations to secure, maintain and preserve the sanitary condition of all water in and to flow into any reservoir owned by the District to prevent waste of water or the unauthorized use thereof, to regulate resident, hunting, fishing, boating, and camping, and all recreational and business privileges, along or around any such reservoir or any body of land, or easement owned by the District within Palo Pinto County.

(b) Such District may prescribe reasonable penalties for the breach of any regulation of the District, which penalties shall not exceed fines of more than Two Hundred (\$200.00) Dollars, or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the District may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the county in which such reservoir is situated, or in any county in which it is partly situated. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; one (1) notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the

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advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty, and the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinance of a city of the state.

(c) Any duly constituted peace officer shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the District, and against the laws of the State of Texas, when any such offense or threatened offense, occurs upon any land, water, or easement owned or controlled by the District, or to make such arrest at any place, in case of an offense involving injury or detriment to any property owned or controlled by such District.

Sec. 25. The District is authorized to establish or otherwise provide for public parks and recreation facilities, and to acquire land in Palo Pinto County for such purposes, provided, however, that no money received from taxation or from bonds payable wholly or partially from taxation shall be used for such purpose; nor shall the right of eminent domain be extended for such purposes.

Sec. 26. Nothing in this Act shall be interpreted as amending or repealing Article 7471, Revised Civil Statutes of Texas, which provides for priorities of the use of water. Acts 1961, 57th Leg., p. 945, ch. 416.

Emergency. Effective June 16, 1961.

Section 27 of the Act of 1961 contained a severability clause.

#### Art. 8280—259. Lomax Municipal District

Section 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 in Harris County, Texas, to be known as "Lomax Municipal District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at a point in the south line of the Enoch Brinson League in Harris County, Texas, said point being 560 feet East of the west right-of-way line of 26th Street, City of Lomax, Texas, and being the southeast corner of said City of Lomax;

THENCE West along said south line of the Enoch Brinson League and the south line of the outlets of the City of La Porte a distance of 4324 feet to the southwest corner of outlet # 471 for corner;

THENCE North along the west line of said outlet # 471 a distance of 450 feet to the northwest corner of said outlet # 471 in the south right-of-way line of North H Street, Lomax, Texas, for corner;

THENCE West with said south right-of-way line of North H Street a distance of 3872 feet to an intersection with the projection south of the east line of outlet # 461, for corner;

THENCE North along said projection south of said east line and along said east line of outlet # 461 a distance of 540 feet to a point in the east line of outlet # 461, which point is 440 feet south of the northeast corner of outlet # 461, for corner;

THENCE West across outlet # 461 and Lomax School Road a distance of 534 feet to a point in the common east line of outlet # 460 and the West right-of-way line of Lomax School Road, which point is 440 feet south of the northeast corner of outlet # 460, for corner;

THENCE South along said east line of outlot # 460 a distance of 430 feet to a point in the east line of outlot # 460, which point is north 110 feet from the south right-of-way line of North H Street, for corner;

THENCE West along a line which is 110 feet north of and parallel to said south right-of-way line of North H Street a distance of 4840 feet to a point in the east right-of-way line of Underwood Road, which point is in the west line of outlot # 451, for corner;

THENCE North along said east right-of-way line of Underwood Road a distance of 9955.4 feet to a point in the common southerly right-of-way line of Houston-La Porte Road (State Highway No. 225) and northerly right-of-way line of T. & N. O. R.R., for corner;

THENCE South 69 degrees 51 minutes East a distance of 12,963 feet with the said common southerly right-of-way line of Houston-La Porte Road (State Highway No. 225) and northerly right-of-way line of T. & N.O. R.R. to its point of intersection with the east line of outlot # 343 projected to the north, for corner;

THENCE North along said northerly projection of said east line of outlot # 343 a distance of 134 feet to a point which is 500 feet north of the northeast corner of outlot # 343, for corner;

THENCE East a distance of 1400 feet to a point 500 feet east of the east right-of-way line of 26th Street, for corner;

THENCE South along a line 500 feet east of and parallel to the east right-of-way line of said 26th Street a distance of 6140 feet to the point of beginning, same being in the south line of the Enoch Brinson League in Harris County, Texas, 560 feet east of the west right-of-way line of said 26th Street, and being the southeast corner of the incorporated City of Lomax, Texas, containing 2390.89 acres, more or less, out of said Enoch Brinson League.

Sec. 2. The District shall have, and is hereby vested with all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 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 the District shall have, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941 (Article 7930-4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); and it is further provided that the District shall not be subject to the provisions of Chapter 128, Acts of the 50th Legislature of Texas, Regular Session, 1947,<sup>1</sup> as the same is now, or hereafter may be amended. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall also have the power to make, construct, or otherwise acquire improvements either within or without the bounda-



ries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws. 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 power of eminent domain granted herein shall be limited to Harris County.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be W. W. Stevenson, Carl C. Womack, Wayne I. Shireman, G. T. Wall and O. J. Cristie. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Harris County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Laws for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of the General Laws relating to fresh water supply districts.

Sec. 4. Within thirty (30) days after said first Board of Supervisors shall have met and organized as herein provided, it shall call an election on the question of the confirmation of the District, and the proposition to be submitted shall be "For Confirmation of the District," and the contrary thereof. The time and place or places of holding said election shall be designated in the election order, and such election shall be held not less than fifteen (15) days from the date of such order. Notice of such election shall be given by posting a substantial copy of the election order at one (1) public place within said District. Such notice shall also be published on the same day in each of two (2) successive weeks in a newspaper of general circulation in said District and published in Harris County, Texas. The date of such posting and the date of the first publication shall be not less than fourteen (14) days prior to the date set for said election. Only duly qualified resident electors of said District shall vote at said election. Said election shall be held and conducted and returns made to said Board of Supervisors in accordance with the provisions of the General Laws relating to fresh water supply districts. If said election results favorably to such District's confirmation, it may thereafter exercise all the rights, powers, privileges, and duties conferred by this Act and by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to fresh water supply districts. If said election results unfavorably to such District's confirmation, such District shall be automatically dissolved and shall no longer exist.

Sec. 5. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are and will be benefited by the creation of the District and 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. Upon the effective date of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein are and will be benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire, and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1961, 57th Leg., p. 1005, ch. 438.

<sup>1</sup> Article 1182c—1.

Emergency. Effective June 17, 1961.

#### Art. 8280—260. Castleman Creek Watershed Association

Section 1. There is hereby created within the State of Texas, a conservation and reclamation district to be known as Castleman Creek Watershed Association which shall include and consist of portions of McLennan County described and contained within the metes and bounds set forth in Section 2 of this Act. The Association is hereby declared to be a governmental agency and body politic with the power to exercise the rights, privileges and functions hereinafter specified and the creation of this Association is hereby declared to be essential to the accomplishment of the purposes set forth in Article XVI, Section 59 of the Constitution of Texas.

Sec. 2. It is expressly determined and found that all of the territory included with the area of the District will be benefited by the works and projects which are to be accomplished by the Association pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas. The area of the Association shall be all of that territory enclosed within the following metes and bounds description, to-wit:

Field Notes to 13,090 Acres of Land Situated  
in McLennan County, Texas:

BEGINNING at the intersection of the line common to McLennan and Falls Counties with the East bank of the Brazos River;

THENCE N 62° W with said common line about 5100 vrs. to the SW corner of the A. W. Warner 604.86 acre tract;

THENCE N 29° W passing the NW corner of said tract and the SW corner of the C. S. Lankart 531.6 acres, in all 3325 vrs. to a corner in the Lankart tract;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

THENCE with the lines of the Lankart tract N 61° E 75.6 vrs. N 29° W 75.6 varas, S 61° W 75.6 vrs., N 29° W 198.5 vrs. N 60° E 59.5 vrs. and N 29° W 27 vrs. to the NW corner of same in the S line of the Henry and Ralph Steiner 2500 acre tract;

THENCE S 60° W 383 vrs. to the SW corner of the 2500 acres;

THENCE N 28° 45' W 1842 vrs. to the S line of the H. D. Webb tract;

THENCE S 62° W 1882 vrs. to an ell corner in the R. A. an A. J. Rogers 116.39 acre tract;

THENCE with the lines of said tract, S 16° E 200 vrs. S 29° E 125 vrs. and S 60° W passing the SW corner of same and the SE corner of the Carl L. DeHay tract, in all 238 vrs. to a corner of the DeHay tract;

THENCE with the lines of the DeHay tract, S 27° 30' E 112 vrs. S 62° W 64 vrs. N 27° 30' W 225 vrs. S 62° W 260 vrs. N 30° W 624 vrs. N 27° 45' W 320 vrs. and N 28° 15' W 850 vrs. to the NW corner of same in the S line of the Carl C. Anderson tract;

THENCE with the lines of the Anderson tract, S 60° W 1107 vrs. N 15° W 497 vrs. N 75° E 72 vrs. N 15° W 126 vrs. S 75° W. 72 vrs. N 15° W 70 vrs. N 5° 30' W 143 vrs. and N 9° 30' E 200 vrs. to the NW corner of same in the S line of the H. Rueter 120 acre tract;

THENCE S 60° W 865 vrs. to the SW corner of the 120 acres

THENCE N 30° W with the West line of said tract 85 vrs. to a SE corner of the Henry Deitz 181 acres;

THENCE W 766.3 vrs. to the SW corner of the Deitz tract;

THENCE N 0° 30' W with the W line of the Deitz tract 876.6 vrs. to the SE corner of the Nathan J. Brown tract;

THENCE W 674.5 vrs. to the SW corner of the Brown tract in the E line of the L. C. Ward 110.4 acre tract;

THENCE with said E line S 9° W 112 vrs. and S passing the SE corner of same and the NE corner of the A. R. Duty 75 acre tract in all 1293 vrs. to the SE corner of the 75 acres;

THENCE W 726 vrs. to the SW corner of the 75 acres;

THENCE N 431.4 vrs. to a SE corner of the A. R. Duty 121.57 acre tract;

THENCE W 301 vrs. to the SW corner of the A. W. Wuebker 14.78 acre tract;

THENCE S 701.5 vrs. to the SE corner of the Herman Wuebker 53.4 acre tract;

THENCE with the lines of the 53.4 acres, W 519.6 vrs. and N 580 vrs. to the NW corner of same in the S line of the A. W. Wuebker 83.15 acres;

THENCE W 76.4 vrs. to the SW corner of the 83.15 acres;

THENCE N 30° W 581 vrs. to the NW corner of said tract;

THENCE N 60° E 75 vrs. to the SW corner of the J. E. Schultz 142 acres;

THENCE with the lines of the 142 acres, N 29° W 1838 vrs. N 61° E 275 vrs. and S 38° E 1515.5 vrs. to the NW corner of the Joe W. Spence 161 acres;

THENCE N 62° E 2521 vrs. to the NE corner of the Carl Black tract;

THENCE S 28° E 318 vrs. to an ell corner in the Black tract in the line common to the M. Martinez Survey and the I. Galindo Survey;

THENCE N 62° E with said common line 1563 vrs. to the NE corner of the Herman Rueter 64.5 acres;

THENCE with the E line of the Rueter tract, S 19° E 327 vrs. and S 28° E passing the corner common to the 64.5 acres and the Herman and Christain Rueter 64.5 acres in all 771 vrs. to the NW corner of the H. W. Rueter 44 acres;

THENCE N 62° E 329.5 vrs. to the NE corner of 44 acres;

THENCE S 28° E 635 vrs. to an ell corner of said tract;

THENCE N 64° E 44.5 vrs. to the NE corner of the W. G. Griffin 72 acres;

THENCE S. 28° E 734 vrs. to the NW corner of the E. A. Griffin 27.27 acres;

THENCE N 62° E 482 vrs. to the NE corner of the 27.27 acres;

THENCE S 28° E 520 vrs. to the NW corner of the Mamie Simmons 19.05 acres;

THENCE N 62° E 285 vrs. to the NE corner of the 19.05 acres in the W line of the Lizzie Peevey 50.5 acres;

THENCE with the lines of the 50.5 acres N 28° W 158 vrs. N 62° E 285 vrs. S 28° E 208.3 vrs. and N 62° E passing the NE corner of same in all 2300 vrs. to an ell corner in the Lee Lockwood tract;

THENCE with the lines of the Lockwood tract N 28° W 406 vrs. and N 62° E 274 vrs. to the SW corner of Dr. Thomas W. Folbre tract;

THENCE with the line of the Folbre tract N 28° W 437 vrs. N 62° E 80 vrs. N 28° W 431.5 varas and N 62° E 375 vrs. to the SW corner of the W. C. Crunk 68.7 acres;

THENCE N 28° W 426.7 vrs. to the NW corner of the E. J. Webb 74 acres, in the S line of the James M. Warner 78.9 acres.

THENCE with the lines of the Warner tract S 62° W 268 vrs. N 7° 30' W 136 vrs. N 62° E 218 vrs. N 7° 30' W 80 vrs. and N 62° E 111 vrs. to the SW corner of the Kenneth Webb 78 acres;

THENCE with the lines of the Webb tract N 28° W 255 vrs. N 62° E 585 vrs. and N 28° W 36 vrs. to the S line of the Guy S. Combs tract;

THENCE With the lines of the Combs tract S 61° 25' W 850 vrs. N 7° 20' W 279 vrs. N 8° 15' W 396 vrs. N 10° E 300 vrs. N 15° E 135.7 vrs. N 6° 30' E 273.6 vrs. N 8° 30' E 81.7 vrs. N 13° 30' E 446.6 vrs. N 7° 30' E 65.5 vrs. N 62° E 564 vrs. N 61° 30' E 32.19 vrs. and N 28° 30' W 725 vrs. to the S bank of the Brazos River;

THENCE with the bank of said river, general course as follows: E 1100 vrs. S 28° W 2800 vrs. S 47° E 1720 vrs. S 77° E 2870 vrs. S 57° 30' E 1680 vrs. S 50° W 3700 vrs. S 8° W 1100 vrs. and S 56° E 2470 vrs. to the place of beginning containing 13,090 acres of land, more or less.

Sec. 3. The Association shall conduct preliminary surveys and develop a plan for the control and use of the waters of Castleman Creek to the end that improvements upon any one part of the watershed will be mechanically and economically related to the improvements of the entire watershed. Upon the completion of such surveys and plans, and their adoption by the directors of the district, a certified copy thereof shall be filed with the State Board of Water Engineers for informational purposes.

Sec. 4. The Association shall have and exercise and is hereby vested with the power to control, store, preserve and distribute the water and floodwaters within the area of the Association for the irrigation of arid land, conservation, preservation, reclamation, and drainage of the lands within the Association, and is empowered to carry out flood prevention measures to prevent damage to the land and property within the Association and to reclaim lands heretofore damaged by reason of the prior fail-

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

ure to provide the facilities authorized to be constructed under the provisions of this Act.

Sec. 5. In exercising the power for which the Association is created, it shall have all of the authority conferred by General Law upon water control and improvement districts, including, but not limited to, the power to construct, acquire, improve, maintain and repair dams or other structures and the acquisition of land, easements, properties, or equipment which may be needed to utilize, control and distribute any waters that may be impounded, diverted, or controlled by the Association. The exercise of the right of eminent domain, if required under the terms of this Act, shall be limited to the County of McLennan.

Sec. 6. It shall not be necessary for the Association to have a hearing for exclusions of land or for the confirmation of its organization.

Sec. 7. For the accomplishment of any one or more of the purposes for which the Association is created or authorized to be created hereunder, the Association shall have the power and is hereby empowered to cooperate with any agency, representative, instrumentality, or department of the Federal Government and may issue bonds, in the manner hereinafter provided, for the purpose of acquiring the funds necessary to furnish land, easements, or permanent improvements thereon. For the purpose of maintaining the structures, channelling or other works of improvements constructed by the Association or others in cooperation with the Association, the Association shall have the power to levy and assess a maintenance tax, provided, however, that no such maintenance tax shall be levied until approved and authorized by a majority of the resident qualified property tax paying voters participating at an election called for that purpose. In calling the election, the directors shall specify the maximum rate of tax which is sought to be levied, and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation to the electors hereinabove described.

The election shall be called and notice given in the same manner as authorized hereunder for a bond election, and may be held simultaneously with such bond election, but nothing herein shall prevent the calling of subsequent maintenance tax elections to establish or increase the amount of tax should the directors find such election is required.

Sec. 8. If bonds are authorized by the electorate under the provisions of Section 7 of this Act, the Directors may, at the time of selecting a plan or plans of taxation, also authorize the pledging of the revenues of the district to the payment of such bonds.

Sec. 9. The Association, upon the adoption of the plan or method of taxation, may call future hearings (in the same manner as for the adoption of the original plan) to consider a change in the method of taxation, but once bonds are approved by the Attorney General or District Court, the political subdivision issuing those bonds may not thereafter change its plan of taxation.

Sec. 10. In addition to the powers granted under the provisions of Sections 7, 8 and 9 of this Act, the Association shall have the power to issue bonds secured by a pledge of revenues, taxes, or both as provided by General Law for water control and improvement districts.

Sec. 11. All bonds issued by the Association shall be issued in the same manner and with the same terms, upon the same conditions, and with the same consideration and provision as under the General Law gov-

erning water control and improvement districts. Such bonds may be refunded as provided by the law adopted in Section 12.

Sec. 12. Except as modified or supplemented by the provisions of this Act, all laws or parts of law now in effect or hereafter adopted, as well as those amendatory or supplemental to the General Laws pertaining to water control and improvement districts, are adopted by reference as though set out at length herein, and such laws shall govern the Association.

Sec. 13. The Board of Directors of the Association shall be comprised of five persons. Immediately after this Act becomes effective the following named persons shall be the directors of the Association and shall constitute the Board of Directors of said Association: C. S. Lankart, Rt. 6, Waco, Texas; Joe Spence, Rt. 2, Waco, Texas; Carl C. Anderson, 233 N. 6 Street, Waco, Texas; Carl Buck, Rt. 2, Lorena, Texas; and James Warner, P. O. Box 2449, Waco, Texas.

The Board of Directors herein appointed shall serve until their successors have been duly elected and qualified. The first three directors named above shall serve until the second Tuesday in January, 1962, and the following two directors shall serve until the second Tuesday in January, 1963. An election for directors shall be held on the second Tuesday in January of each year and as herein provided. Three directors shall be elected in each even numbered year and two in each odd numbered year.

The directors of the Association shall be landowners within the Association and reside within McLennan County, Texas, and shall retain such status during their tenure in office or vacate such office. Acts 1961, 57th Leg., p. 1011, ch. 441.

Emergency. Effective June 17, 1961.

#### **Art. 8280—261. Angleton Municipal Utility District**

Section 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 in Brazoria County, Texas, to be known as "Angleton Municipal Utility District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the intersection of the east right-of-way line of the Missouri Pacific Railroad and the south boundary line of the Edwin Waller League, Ab. 134, Brazoria County, Texas;

THENCE in an easterly direction along the south boundary line of said Edwin Waller League, Ab. 134, and continuing in the same direction along the south boundary line of the C. R. Hudson Sur., Ab. 201, a total distance of 7450 feet more or less to an intersection with the east boundary line of said Hudson Sur., Ab. 201;

THENCE in a northerly direction along the east boundary line of said C. R. Hudson Sur., Ab. 201, 4000 feet more or less to its intersection with the southwesterly extension of the south line of the 30 acre Otto Eber Spacher tract in the Wm. McDermott League;

THENCE in a northeasterly direction along said southwesterly extension of said south line of said 30 acre Otto Eber Spacher tract 2600 feet more or less to the southwest corner of the said Otto Eber Spacher 30 acre tract;

THENCE continuing in a northeasterly direction along said south line of said Otto Eber Spacher 30 acre tract and its extension northeasterly 1560 feet more or less to an intersection with the east right-of-way line of Oyster Creek Road;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

THENCE in a northwesterly direction along said east right-of-way line of Oyster Creek Road 2050 feet more or less to the most southerly corner of the Phelps Magnolia Fig Co. 100 acre tract in the Wm. McDermott League, said most southerly corner being on said east right-of-way line;

THENCE in a northeasterly direction along the south line of said Phelps Magnolia Fig Co. 100 acre tract 1440 feet more or less to the most easterly corner of said Phelps Magnolia Fig Co. 100 acre tract, said corner being on the west line of the Frank C. Underhill 36 acre tract in the Wm. McDermott League;

THENCE in a northwesterly direction along the east line of said Phelps Magnolia Fig Co. 100 acre tract 3850 feet more or less to its intersection with the north boundary line of the Wm. McDermott League, said intersection being in the east right-of-way line of a county road in the I. T. Tinsley Sur., Ab. 375;

THENCE in a northerly direction along said east right-of-way line of said county road in the I. T. Tinsley Sur., Ab. 375, 2675 feet more or less to the northwest corner of lot 178 of the John Doubrave tract in the I. T. Tinsley Sur., Ab. 375, said northwest corner being on said east right-of-way line;

THENCE in a westerly direction along the easterly extension of the north line of Lot 82 of the E. Schwian, et al, tract in the I. T. Tinsley Sur., Ab. 375, and along said north line of said Lot 82 and continuing in the same direction along the north lines of Lot 86 of said E. Schwian, et al, tract in the I. T. Tinsley Sur., Ab. 375, Lot 89 of the H. M. Barnett tract in the I. T. Tinsley Sur., Ab. 375, and Lot 97 of the J. T. Loggins tract in the I. T. Tinsley Sur., Ab. 375, a total distance of 4525 feet more or less to an intersection with the east right-of-way line of Oyster Creek Road;

THENCE in a generally southeasterly direction along the meanders of said east right-of-way line of Oyster Creek Road 775 feet more or less to its intersection with the north boundary line of the Edwin Waller League, Ab. 134;

THENCE in a westerly direction along said north boundary line of the Edwin Waller League, Ab. 134, 4500 feet more or less to its intersection with the east right-of-way line of the Missouri Pacific Railroad;

THENCE in a southerly direction along said east right-of-way line of said Missouri Pacific Railroad, 13,775 feet more or less to its intersection with the south boundary line of the Edwin Waller League, Ab. 134, the point of beginning, said area containing 3,064 acres more or less.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 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 the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941 (Article 7930—4,

Vernon's Texas Civil Statutes, 1925, as amended), even though said District is located within a county of less than five hundred thousand (500,000) inhabitants, and including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); and it is further provided that the District shall be subject to, and have the powers granted by, Chapter 128, Acts of the Fiftieth Legislature of Texas, Regular Session, 1947, as the same is now, or hereafter may be, amended. Said District shall also have the power to make, construct, or otherwise acquire improvements within the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws.

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, re-routing 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, re-routing, 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, lowering, 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.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be appointed by the Commissioners Court of Brazoria County. The first Board of Supervisors shall meet and organize within ninety (90) days after the effective date of this Act, and shall within such time file their official bonds. If any of the members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Brazoria County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Law for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Nothing in this Act shall be construed as extending the power of eminent domain outside the boundaries of the District created hereby. Acts 1961, 57th Leg., p. 1078, ch. 483.

Emergency. Effective June 17, 1961.

#### Art. 8280—262. Kerr County (Center Point) Water Control and Improvement District

Section 1. District Created. Under and pursuant to the provisions of Article XVI, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created in Kerr County to be known as "Kerr County (Center Point) Water Control and Improvement District," hereinafter referred to as the "District," which shall be a governmental agency and body politic and corporate and a municipal corporation.

Sec. 2. Territory Comprising District. The area of the District is hereby established to comprise all territory contained within the boundaries described as follows, to wit:

BEGINNING at the point of intersection of the centerline of Steel Creek and the South right-of-way line of the Texas and New Orleans Railroad, said point being 150 feet, plus or minus, from the centerline of the Texas and New Orleans Railroad's main line of track, for the Northeast corner of the Water Control and Improvement District and the point of beginning of this survey;

THENCE, with the South right-of-way line of the Railroad S. 82° 42' W. 1558.12 feet to a point for corner;

THENCE, northerly 100 feet to a point for corner;

THENCE, S. 82° 42' W. along the South right-of-way line of the Texas and New Orleans Railroad 1309 feet to a point being the Northwest corner of the Water Control and Improvement District;

THENCE, S. 02° 58' 45" E. 1125 feet to a point on the side of the Old Kerrville Road;

THENCE, N. 87° 29' 45" E. 554.59 feet to a point in the centerline of the Old Kerrville Road and the centerline of Brink Street;

THENCE, S. 03° 11' E. 1466.60 feet to a point 231.72 feet South of the centerline of Kelly Street;

THENCE, N. 84° 58' 30" E. 1237.78 feet to a point for a corner;

THENCE, S. 03° 24' 30" E. 519.89 feet to a point for a corner;

THENCE, N. 86° 0' E. 494.03 feet to a point for a corner;

THENCE, S. 04° 0' E. 2945.51 feet to the Southwest corner of the District;

THENCE, N. 85° 47' 45" E. 1549.16 feet to the Southeast corner of the District;

THENCE, N. 04° 25' 45" W. 833.17 feet to a corner;

THENCE, N. 85° 06' 45" E. 609.21 feet to a point approximately 200 feet East of Maylyn Street;

THENCE, N. 04° 32' W. 1073.87 feet to a corner;

THENCE, N. 85° 57' 45" E. 633.29 feet to a corner;

THENCE, N. 05° 56' 15" W. 1968.12 feet to a corner;

THENCE, S. 85° 46' 45" W. 1411.64 feet to a corner;

THENCE, N. 04° 07' 30" W. 1215 feet to a point in the centerline of Steel Creek on the North side of the Guadalupe River;

THENCE, with the centerline of Steel Creek to the point of beginning, containing 393.01 acres, more or less.

It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process it shall in no way or manner affect the organization, existence and validity of said District or the right of the District to issue bonds or refunding bonds, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of the District.

Sec. 3. District's Powers. The District shall have and exercise and is hereby vested with all of the rights, powers and privileges conferred by the General Laws of this State now in force and effect or hereinafter enacted, applicable to water control and improvement districts created under the authority of Article XVI, Section 59 of the Constitution of Texas, but to the extent that the General Laws may be in conflict and inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. The ad valorem plan of taxation shall be used by the District, provided, however, the District shall never have the power or authority to levy an ad valorem tax greater than fifty cents (50¢) per one hundred dollar valuation.

Sec. 4. Governing Body of District. The management and control of the District is hereby vested in a Board of five (5) Directors, which shall have all of the powers and authority conferred upon Boards of Directors of water control and improvement districts organized under the provisions of Chapter 25,<sup>1</sup> Acts of the Thirty-ninth Legislature, passed in 1925, and amendments thereto, as incorporated in Title 126, Chapter 3A of Vernon's Civil Statutes of the State of Texas, and amendments thereto. Upon the effective date of this Act, the following named persons shall be and constitute the Board of Directors of said District: E. B. Hodges, Mel Sallee, Curtis Edens, Herman Burney, and Otis Smith, and each of said Directors shall subscribe to the Constitutional oath of office and give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), within sixty (60) days after the effective date of this Act, the cost of which shall be paid by the District; and shall hold office until his successor has been elected and qualified. Should any of the named Directors refuse to act or for any reason shall fail to qualify as herein required, the County Judge of Kerr County shall fill such vacancy. The terms of the first two named Directors shall expire on the first Tuesday in May, 1962, and the terms of the last three named Directors shall expire on the first Tuesday in May, 1963. A regular election for the election of Directors shall be held on the first Tuesday in May of each year beginning in 1962. Two Directors shall be elected

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in even-numbered years and three in each odd-numbered year. The regular elections for Directors shall be ordered by the Board and such order shall state the time, place, and purpose of the election and the Board shall appoint the presiding judge who shall appoint an assistant judge and two clerks, if needed, and such election shall be ordered at least fifteen (15) days prior to the date of said election and notice of said election shall be published in a newspaper of general circulation in Kerr County one time at least ten (10) days before the election. All vacancies in office (other than for the failure of an original Director to qualify as hereinabove provided) shall be filled by majority vote of the remaining Directors and such appointees shall hold office for the unexpired term for which they were appointed. Each Director shall be entitled to receive the same fees of office as a Director of a water control and improvement district created under the General Law and shall be entitled to receive his actual expenses incurred in attending to District's business, provided such fees and expenses are approved by the Board. Any person who is a resident property-owning taxpaying voter of the District shall be eligible to hold the office of Director of the District. The Board of Directors shall elect from its number a president and vice president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act.

Sec. 5. May Issue Bonds. For the purpose of purchasing, acquiring, constructing or improving a surface or underground water supply and water distribution system or for the purpose of constructing or improving a sanitary sewer system including collecting and disposal facilities or for the purpose of carrying out any other power or authority, conferred upon the District by this Act or by the General Laws incorporated herein, or for any combination of such purposes, the District is specifically authorized to issue its negotiable bonds. Such bonds may be secured by and payable wholly from ad valorem taxes to be levied upon all taxable property in the District or wholly from net operating revenues of the District or by the net revenues of any one or more contracts hereafter made or other revenues as specified in the resolution authorizing their issuance. For the purposes herein stated the District is also empowered to issue bonds secured by and payable from any combination of taxes and net revenues as the Board of Directors may determine. In the case of bonds authorized to be issued and which are secured by and payable wholly or partially from net revenues the Board of Directors is authorized to mortgage and encumber any part of or all of its properties and facilities and the franchise and revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired. In the resolution authorizing the issuance of bonds supported in whole or in part by revenues of the District the Board of Directors may reserve the right under the conditions therein specified, to issue additional bonds on a parity with or subordinate to the bonds being issued. The term "net operating revenues" or "net revenues" as used herein shall be understood to exclude any money derived from taxation but to include all income and increment which may grow out of the ownership and operation of the improvements or facilities of the District less such part of the District's revenue income as reasonably may be required to provide for the administration, efficient operation and adequate maintenance of such improvements and facilities.

It is expressly provided, however, that no bonds except refunding bonds shall be issued by the District until their issuance has been approved by the resident qualified property taxpaying voters, whose property has been duly rendered for taxation, as provided by General Law; and should any proposition so submitted at an election be defeated another election or elections may be called and held within said District to vote upon the same or similar proposition at such time as the Board of Directors may determine. Bond elections may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint the necessary assistant judges and clerks for holding such election. Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper or newspapers of general circulation in the District once each week for two (2) consecutive weeks. The first publication shall be at least fourteen (14) days prior to the election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. The General Laws relating to elections shall be applicable to elections held under this Section of this Act, except as otherwise provided in this Act.

Except as herein otherwise prescribed the bonds of the District shall be authorized by resolution of the Board of Directors and may be sold under the terms and provisions of the General Laws of this State now in effect or hereafter enacted applicable to bonds issued by water control and improvement districts. Within the discretion of the Board the bonds may be callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing their issuance.

The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon and in the case of revenue-supported bonds such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges provided for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, or in lieu thereof the resolution authorizing their issuance may provide that they may be sold and the proceeds thereof deposited in a bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

All bonds of the District, including refunding bonds, and the proceedings pertaining to their authorization shall be submitted to the Attorney General of Texas, and if such bonds have been authorized in accordance with the provisions hereof, he shall approve the bonds which shall then be registered by the Comptroller of Public Accounts. Thereafter such bonds shall be valid and binding and shall be incontestable for any cause.

It is further provided that no debts or obligations shall be incurred by said District, and no ad valorem tax shall be levied by said District, until and unless there shall have been an election called and held, un-

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der the terms of this Act, authorizing the levying of such ad valorem tax, and/or the incurring of such indebtedness, at which election a majority of the resident qualified property taxpaying voters shall approve the levying of such ad valorem tax or the incurring of such indebtedness.

Sec. 6. Bonds Exempt from Taxation. The bonds issued hereunder and their transfer and the income therefrom, including the profits on the sale thereof, shall at all times be free from taxation by the State or by any municipal corporation, county, or other political subdivision or taxing district of the State.

Sec. 7. District Depository and Methods of Selecting Same. (a) The Board of Directors shall designate one or more banks within Kerr County to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks, except those pledged to pay bonds, which shall be deposited with the trustee bank, or paying agent, named in the bond proceedings and to the extent provided for in such proceedings. To the extent that funds in the depository bank and the trustee bank are not insured by the F. D. I. C., they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place, when and where the Board will meet for such purpose and inviting the banks in Kerr County to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be published one time in a newspaper or newspapers of general circulation in said County and specified by the Board, and such publication shall be accomplished one time at least ten (10) days prior to the date of the Board meeting.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and are in condition to warrant handling the District's funds.

(d) If no acceptable applications are received by the time stated in the notice, the Board shall designate some bank or banks within or without the said County upon such terms and conditions as it may find advantageous to the District.

Sec. 8. Charges for Services. The District shall have the right to fix and collect charges, fees or tolls for the services of its water and sanitary systems and facilities, and the District shall have the right to impose penalties for failure to pay when due such charges, fees or tolls.

Sec. 9. District May Acquire Property. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors as is necessary to the operation of the District and to the carrying out of the purposes of this Act. 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, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph prop-

erties and facilities, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The power of eminent domain herein granted shall be confined to the limits of Kerr County. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 10. Exclusion of Land. After preliminary surveys have been completed and the District has adopted plans for the construction of improvements to accomplish the purposes for which the District is organized, but before the District calls an election for the authorization of bonds, there must be exclusions of land or other property, if any such exclusions are deemed practicable, just or desirable by means and upon conditions as follows:

The Directors of the District shall give notice of a time and place of hearing to announce their own conclusions as to exclusions of land or other property. Such notice shall be published once in a newspaper of general circulation in the County and such publication shall appear at least fifteen (15) days prior to the date of the hearing. Said notice shall give advice to all interested property owners of their right to present petitions for exclusions and offer evidence in support thereof, or to contest any proposed exclusion and offer evidence in support thereof whether to be based on a petition or upon the Board's own conclusions. Petitions for exclusion of lands must accurately describe the metes and bounds of such lands, and petitions for the exclusion of other property shall describe the same for identification.

In order to give the District an opportunity to investigate the physical conditions of property sought to be excluded, all petitions for exclusions shall be filed with the District not later than five (5) days prior to the hearing, and must clearly set forth the grounds on which exclusion is sought and consideration shall be confined to the stated grounds. Lands or other property included within the boundaries of the District may be excluded only upon one or more of the grounds upon which land may be excluded in a water control and improvement district organized under Chapter 3A of Title 128, Revised Civil Statutes, as amended, and the hearing provided hereunder shall be conducted and may be adjourned from day to day as therein provided. The order of the Board of Directors upon the conclusion of the hearing shall be entered in the manner required by the aforesaid law relating to water control and improvement districts, and shall redefine the boundaries of the District to include all lands not excluded.

Sec. 11. District Declared Essential. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is empowered to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of the purposes of said Constitutional provision; and that this Act operates on a subject in which the State at large is interested. It is hereby found and determined that all of the lands and other property included within the boundaries of the District, but excluding the land and other property which the Board of Directors may exclude under the provisions of Section 10 hereof, will be benefited thereby, and that the District is created to serve a public use

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and benefit. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

Sec. 12. Bonds of District as Investments and Security for Public Funds. All 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, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Saving Clause. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provisions of this Act shall be invalid, such fact shall not affect the creation of the District, or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1961, 57th Leg., p. 1140, ch. 518.

<sup>1</sup> Article 7880—1 et seq.

Effective 90 days after May 29, 1961,  
date of adjournment.

#### Art. 8280—263. Hull Fresh Water Supply District

Section 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 in Liberty County, Texas, to be known as "Hull Fresh Water Supply District," hereafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the NE corner of the Chas. Underton Survey, A—391, Liberty County, Texas, which point of beginning is also the SE corner of the C. F. Stevens Survey, A—920, and is in the West line of the A. Melonson Survey No. 194, A—701;

THENCE following the East line of said Stevens Survey in a Northerly direction to the NE corner of said Stevens Survey, A—920, the same being the NW corner of the aforesaid A. Melonson Survey No. 194, A—701;

THENCE in an Easterly direction following the North line of said A. Melonson Survey No. 194 to the SE corner of the Humble Pipeline Co. 40.25 acre tract of land;

THENCE in a Northerly direction following the East line of said Humble Pipeline Co. 40.25 acre tract, and the Northerly prolongation of said East line to a point in the North right-of-way line of the Missouri Pacific RR;

THENCE in a Westerly direction following said North right-of-way line of said RR to the SE corner of the Magnolia Pipeline Co. 39.08 acre tract;

THENCE in a Northerly direction following the East line of said 39.08 acre tract to the NE corner of same;

THENCE in a Westerly direction following the North line of said 39.08 acre tract and the Westerly prolongation of same to the SE corner of the Leo Fregia 4 acre tract of land;

THENCE following the East line of said Fregia 4 acre tract in a Northerly direction to the NE corner of said tract;

THENCE following the North line of said Leo Fregia 4 acre tract in a Westerly direction to the NW corner of same, said corner being the most Easterly SE corner of the J. L. Deckert tract of land situated in the H. T. C. Survey No. 193, A-239;

THENCE following the East line of said J. L. Deckert tract in a Northerly direction to the NE corner of same, said corner being in the North line of said H. T. C. Survey No. 193;

THENCE following the North line of said H. T. C. Survey No. 193 in an Easterly direction to a point in line with the Southerly prolongation of the East line of the H. Taylor 4.5 acre tract of land in the Francis Smith Survey, A-346;

THENCE in a Northerly direction along said Southerly prolongation of said East line of said H. Taylor 4.5 acre tract and continuing along said East line of said 4.5 acre tract and the Northerly prolongation of said East line to the center line of Batiste Creek;

THENCE in a generally Northwesterly direction following the meanders of the center of Batiste Creek upstream to a point in the West line of the J. W. Mecom 48 acre tract in the Francis Smith Survey, A-346;

THENCE following the West line of said J. W. Mecom 48 acre tract in a Southerly direction to the SW corner of same, and the SE corner of another tract of land belonging to said J. W. Mecom and containing 73.33 acres;

THENCE in a Westerly direction following the South line of said J. W. Mecom 73.33 acre tract and the Westerly prolongation of same to the NW corner of Garden Subdivision out of said Francis Smith Survey, A-346, according to a map or plat of said Subdivision, of record in Vol. 113, page 177, of the Deed Records of Liberty County, Texas;

THENCE in a Southerly direction following the West line of said Garden Subdivision and the Southerly prolongation of said West line to a point 280 ft. South of the intersection of said Southerly prolongation of said West line with the South right-of-way line of F.M. Hwy. 834 based upon a right-of-way width of 80 ft.;

THENCE in an Easterly direction at right angles to said Southerly prolongation of the West line of said Garden Subdivision to a point in the West line of the J. S. Wheless and Thos. J. Baten 15 acre tract;

THENCE in a Southerly direction following the West line of said Wheless and Baten 15 acre tract to the SW corner of said tract, the same being a point in the North line of the Jewell Vaughn 14.33 acre tract;

THENCE in a Westerly direction following the North line of said Vaughn 14.33 acre tract to the NW corner of said tract;

THENCE in a Southerly direction following the West line of said Jewell Vaughn 14.33 acre tract and the Southerly prolongation of said West line to the SW corner of the T. D. Richardson, et al., 8 acre tract, which SW corner of said tract is in the North line of the C. F. Stevens Survey 194, A-767;

THENCE in a Westerly direction following the North line of said Stevens Survey to the NW corner of said Survey, the same being a point in the East line of the William Smith Survey, A-342;



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THENCE following the East line of said William Smith Survey, A-342, in a Southerly direction a distance of 2,000 ft.;

THENCE in an Easterly direction at right angles to the East line of said William Smith Survey, A-342, following a straight line to the West line of the J. P. Richardson 75.88 acre tract;

THENCE following the West line of said J. P. Richardson 75.88 acre tract in a Southerly direction to the North line of the Chas. Underton Survey, A-391;

THENCE following the North line of said Chas. Underton Survey, A-391, in an Easterly direction to the NE corner of said Underton Survey the POINT OF BEGINNING, containing 1,076 acres of land, more or less.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby 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 the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941 (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), even though said District is located within a county of less than five hundred thousand (500,000) inhabitants, and including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941—c, Vernon's Texas Civil Statutes, as amended). Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority created by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District, as defined herein. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power created hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties or 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, lowering, rerouting, 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 facilities.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors

of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto. The members of the first Board of Supervisors shall be: George Richards, E. A. Hendrick, Douglas Emanuel, Floyd Finklea, and Jimmy Best, Sr. Said members shall become supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Liberty County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Law for fresh water supply districts. The first election of supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and 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. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. The Legislature hereby exercises the authority conferred upon it by Section 59 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 provisions; finds that all of the lands and other property included therein are, and will be, benefited thereby and by the improvements the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate and a municipal corporation. Acts 1961, 57th Leg., p. 1178, ch. 533.

Emergency. Effective June 17, 1961.

**Art. 8280—264. Zapata County Water Control and Improvement District—San Ygnacio**

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Zapata County, Texas, to be known as "Zapata County Water Control and Improvement District-San Ygnacio," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

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Sec. 2. The District shall comprise all of the territory contained within the following described area and being in Zapata County, Texas:

BEGINNING at a point on the east side of the bridge on U. S. Highway 83 crossing Arroyo Grullo, said point being Station B-A-139 on the 307 Contour as established by the International Boundary and Water Commission, United States Section, and recorded in Volume 2 Page 152-A of the Map Records of Zapata County, Texas;

THENCE east to a point 200 feet east of the right-of-way of U. S. Highway 83;

THENCE in a southerly and southeasterly direction 200 feet from and parallel to the east line of U. S. Highway 83 to a point in the north 500,000 grid line established by the International Boundary and Water Commission and shown on their Drawing No. L-1455-18 recorded in the Map Records of Zapata County, Texas, as given above in Volume 2 Page 152-A;

THENCE in a westerly direction with said north 500,000 grid line to its intersection with the 307 Contour as referred to above;

THENCE with the 307 Contour in a northerly direction up the river and up Arroyo Grullo to the point of beginning; containing 150.71 acres, more or less.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District (Zapata County Water Control and Improvement District-San Ygnacio) will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 3A. It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence, and validity of said District, and the right of said District to issue bonds or refunding bonds, or to pay the principal and interest thereon, and the right to assess, levy, and collect taxes, or in any manner affect the legality or operation of said District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with all of the rights, powers, privileges, authority, and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution of Texas, but to the extent that the provisions of any 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. It shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the exclusion of lands or a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used by the District.

Sec. 5. In no manner limiting the right, power, or authority of the District, as heretofore granted, but specifically granting to the District the right, power, and authority to purchase and construct or purchase or construct or acquire waterworks systems, sanitary sewer systems, storm sewer systems, and drainage facilities or parts of such systems or facilities and to make any and all necessary purchases, constructions, improve-

ments, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor and to operate and maintain same, and to sell water and other services, and the District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District but only within the boundaries of Zapata County, Texas, and the District may issue its bonds or refunding bonds for such purposes and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 6. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he owns taxable property in the District and resides in Zapata County, Texas, but such Directors do not have to reside within the boundaries of the District. Such Directors shall subscribe to the constitutional oath of office, and each shall give bond in the amount of One Thousand Dollars (\$1,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum. Immediately after this Act becomes effective, the following named persons shall be the Directors of said District and shall constitute the Board of Directors of said District: Pedro P. Uribe, Celestino Solis, Teofilo Vela, Jose Maria Uribe, Santiago Ramirez, all residing within Zapata County, Texas. If any of the aforementioned persons shall die, become incapacitated, or otherwise not be qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two (2) named Directors shall serve until the second Tuesday in January, 1962, and the last three (3) named Directors shall serve until the second Tuesday in January, 1963. An election for the election of Directors shall be held on the second Tuesday in January of each year beginning in 1962, and as herein provided. Two (2) Directors shall be elected in each even-numbered year and three (3) in each odd-numbered year. The yearly elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president and vice-president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president, when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine such offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint all necessary engineers, attorneys, fiscal agents, managers, and employees. The Board shall adopt a seal for the District.

Sec. 7. Bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District to be most advantageous reasonably obtainable, but none of said bonds or refunding bonds shall be sold for less than ninety per cent (90%) of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price for work done or

materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety per cent (90%) of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified. When bonds or refunding bonds have been issued by the District and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal and binding obligations and shall be incontestable for any cause.

Sec. 8. All bonds or refunding bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds or refunding 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds or refunding bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 9. The provisions of Article 7880—77b, Vernon's Civil Statutes, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election.

Sec. 10. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and the District shall not be required to pay any tax or assessment on the project, or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 11. A complete system of accounts shall be kept by the District and an audit of its affairs for each year shall be prepared by an independent public accountant of recognized integrity and ability. The fiscal year of the District shall be from January 1st to December 31st and the audit shall conform to December 31st as the end of the fiscal year for the District. A written report of said audit shall be delivered to the President of the Board of Directors not later than March 15th of each year. A copy of such audit report shall be delivered upon request to the holder or holders of at least twenty-five per cent (25%) of the then outstanding bonds of the District. At least five (5) additional copies of said report shall be delivered to the office of the District; one of which shall be filed in the office of the District and one shall be filed in the office of the Auditor, and such copies shall constitute public records to be open to inspection by any interested person or persons. The cost of said audit shall be determined by the Board of Directors of the District and shall be paid by the District.

Sec. 12. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted here-

under, 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. Acts 1961, 57th Leg., 1st C.S., p. 12, ch. 2.

Emergency. Effective Aug. 1, 1961.

**Art. 8280—265. Kimble County River Authority**

Section 1. There is hereby created within the State of Texas, in addition to the Districts into which the State had heretofore been divided, a Conservation and Reclamation District to be known as "The Kimble County River Authority" (hereinafter called the District) and consisting of that part of the State of Texas which is included within the boundaries of the County of Kimble. Such District shall be and is hereby declared to be a governmental agency and body politic and corporate, with the power of government and with the authority to exercise the rights, privileges and functions hereinafter specified, and the creation of such District is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas, including (to the extent hereinafter authorized) the control, storing, preservation and distribution of the water of the Llano River and its tributaries for irrigation and other useful purposes, and reclamation and irrigation of arid, semiarid and other lands needing irrigation, and the conservation and development of the forests, pasture and crop lands.

Sec. 2. Except as expressly limited by this Act, the District shall have and is hereby authorized to exercise all powers, rights, privileges and functions conferred by General Law upon any District or Districts created pursuant to Section 59 of Article 16, of the Constitution of the State of Texas. Without limitation of the generality of the foregoing the District shall have and is hereby authorized to exercise the following powers, rights, privileges and functions:

(a) to control, store and preserve, within the boundaries of the District, the water of the Llano River and its tributaries for any useful purpose or purposes, and to use, distribute and sell the same, within the boundaries of the District, for any such purpose or purposes;

(b) to prevent or aid in the prevention of damage to person or property from the waters of the Llano River and its tributaries;

(c) to forest and reforest and to aid in the foresting and reforesting of the watershed area of the Llano River and its tributaries and to prevent and to aid in the prevention of soil erosion and floods within said watershed area;

(d) to acquire by purchase, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use and operate any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the District, necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(e) to acquire by condemnation any and all property of any kind, real, personal or mixed, or any interest therein, within the boundaries of the District necessary to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation, or, at the option of the District in the manner provided by the Statutes relative to condemnation by Districts

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

organized under General Law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

(f) subject to the provisions of this Act, from time to time sell or otherwise dispose of any property of any kind, real or personal, or mixed, or any interest therein which shall not be necessary to the carrying on of the business of the District;

(g) to overflow and inundate any public lands and public property and to require the relocation of roads and highways in the manner and to the extent permitted to Districts organized under General Law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

(h) 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 or convenient to the exercise of such powers, rights, privileges and functions;

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

(j) to make by-laws for the management and regulation of its affairs;

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

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

(m) to make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act;

(n) to borrow money for its corporate purposes, and without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America; and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to make and issue its negotiable bonds for moneys borrowed in the manner and to the extent provided in Section 10. Nothing in this Act shall authorize the issuance of any bonds, notes or other evidences of indebtedness of the District, except as specifically provided in this Act, and no issuance of bonds, notes or other evidences of indebtedness of the District, except as specifically provided in this Act, shall ever be authorized except as an Act of the Legislature;

(o) to do any and all other acts or things necessary to the exercise of the powers, rights, privileges or functions conferred upon it by this Act or any other Act or law;

(p) this District shall have the authority and is hereby authorized to issue its negotiable revenue bonds secured only by pledge of the sums granted and/or donated by the State of Texas and/or out of any other current revenues of the District in any such amount as may be authorized by the Directors of such District, which sums shall be paid to the legal holders of said bonds.

Nothing in this Act shall be construed as depriving any person or municipality of the right to impound the waters of the Llano River and/or its tributaries for domestic and/or municipal purposes, nor of repealing any law granting such rights to persons and municipalities.

Sec. 3. The powers, rights, privileges and functions of the District shall be exercised by a Board of five (5) Directors (hereinafter called the Board) all of whom shall be residents of and freehold property taxpayers in the said District. All of the initial Directors shall be appointed by the Commissioners Court of Kimble County, Texas. One (1) of said Di-

rectors shall be appointed from each of the Commissioners Precincts of said Kimble County, Texas, and one (1) shall be appointed at large and without regard to his residence in any fixed Commissioners Precinct. The first Directors shall be appointed by the Commissioners Court within thirty (30) days after this Act becomes effective and they shall hold office until their successors are elected and appointed as hereinafter provided.

The Commissioners Court of Kimble County, Texas, shall cause an election to be held in each of the Commissioners Precincts of said Kimble County, Texas, for the election of one (1) Director from each of said Precincts; the first election to be held on the date of the first primary election in the year 1962, and on the date of said primary election each two (2) years thereafter. A person receiving a plurality of the votes at such election shall be the Director from said Precinct, and the Director elected from Precincts 1 and 3 shall serve for a term of four (4) years, and the Directors elected from Precincts 2 and 4 shall serve for a term of two (2) years, initially, and thereafter, all of such Directors shall be elected for a full four-year term. The remaining Director shall be appointed by the Commissioners Court of Kimble County, Texas, for a term of two (2) years.

A vacancy resulting from the death, resignation, or removal of any Director, shall be filled by the Commissioners Court of Kimble County, Texas, for the unexpired term of such Director.

Each Director shall qualify by taking the official oath of office prescribed by General Statute.

Each Director may receive a fee of Ten Dollars (\$10) per day for each day spent in attending meetings of the Board.

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 three (3) of the Directors may designate in writing. Three (3) 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 Five Hundred Dollars (\$500) 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 three (3) Directors.

Sec. 4. The Board shall select a secretary who shall keep true and complete records of all proceedings of the Board. Until the appointment of a secretary, or in the event of his absence or inability to act, a secretary pro tem shall be selected by the Board. The Board shall also select a treasurer, who may also hold the office of secretary. All such officers shall have such powers and duties, shall hold office for such term and be subject to removal in such manner as may be provided in the by-laws. The Board shall fix the compensation of such officers. The Board may appoint such officers, agents and employees as it deems necessary, fix their compensation and term of office, and the method by which they may be removed, and delegate to them such of its power and duties as it may deem proper.

Sec. 5. The moneys of the District shall be disbursed only by checks, drafts, orders or other instruments signed by such persons as shall be authorized to sign the same by the by-laws, or resolutions concurred in by



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

not less than three (3) Directors. The secretary, 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 on 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 may be paid by the District and charged as an operating expense. Such bonds shall be payable to the Board of Directors and their successors in office for the use and benefit of the District.

Sec. 6. The general office of the District in Kimble County shall be located by a vote of a majority of the Board of Directors. The District shall cause to be kept at its general office complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and contracts shall be open to public inspection at all reasonable times. The Board shall cause to be made and completed within ninety (90) days after the end of each calendar year, an audit of the books of account and financial records of the District for such calendar year, such audit to be made by an independent certified public accountant or firm of certified public accountants. Copies of a written report of such audit, certified to by said accountant or accountants, shall be placed and kept on file with the Board of Water Engineers, with the Treasurer of the State of Texas and at said principal office, and shall be open to public inspection at all reasonable times.

Sec. 7. No Director, officer, agent or employee of the District shall be directly or indirectly interested in any contract for the purchase of any property or construction of any work by or for the District, and if any such person shall be or become so interested in any such contract, he shall be guilty of a felony and on conviction thereof shall be subject to a fine in an amount not exceeding Ten Thousand Dollars (\$10,000) or to confinement in the State penitentiary for not less than one (1) year nor more than ten (10) years, or both.

Sec. 8. The Board shall establish and collect rates and other charges for the sale or use of water and/or other services sold, furnished, or supplied by the District, which fees and charges shall be reasonable and non-discriminatory, and sufficient to produce revenues adequate, in addition to funds received from tax diversion:

(a) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the District;

(b) to pay the interest on and principal of all bonds issued under this Act when and as the same shall become due and payable;

(c) to pay all sinking fund and/or reserve fund payments agreed to be made in respect to any such bonds, and payable out of such revenues, when and as the same shall become due and payable; and

(d) to fulfill the terms of any agreements made with the holders of such bonds and/or any person in their behalf.

Out of the revenues which may be received in excess of those required for the purposes specified in subparagraphs (a), (b), (c), and (d) above, the Board may in its discretion establish a reasonable depreciation and emergency fund, or retire (by purchase and cancellation or redemption) bonds issued under this Act, or apply the same to any corporate purposes.

It is the intention of this Act that the rates and charges of the District shall not be in excess of what may be necessary to fulfill the obligations im-

posed upon it by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control fees and/or charges to be collected for the use of water, water connections, or other services, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the State will not limit or alter the power hereby vested in the District to establish and collect such fees and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c) and (d) of this Section 8, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the District in connection with such bonds are fully met and discharged.

Sec. 9. Any and every indebtedness, liability or obligation of the District, for the payment of money, however entered into or incurred, and whether arising from contract, implied contract or otherwise, shall be payable solely (1) out of the revenues received by the District in respect of its properties, including funds received by reason of diversion of taxes, subject to any prior lien thereon conferred by any resolution or resolutions theretofore adopted as in this Act provided, authorizing the issuance of bonds or (2) if the Board shall so determine, out of the proceeds of sale by the District, of bonds payable solely from such revenues.

Sec. 10. 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 Two Hundred Thousand Dollars (\$200,000) 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 per centum (6%) 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 purposes; or (3) may be issued in exchange for like principal amounts or 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 three (3) of the members thereof, and shall bear such date or dates, mature at such time or times, bear such interest at such rate or rates (not exceeding six per centum (6%) 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

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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 and five per centum (105%) 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 payments agreed to be made in respect to 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 subdivision (a), (b), (c) and (d), of Section 8 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, improvements, 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 per centum (25%) 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 per centum (25%) 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 of 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 per centum (25%) 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 8 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 proceedings 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 the domicile of the District shall have jurisdiction of any such suit, action or proceedings by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinabove specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise 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 hereinabove 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 obligations of the Dis-

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

Sec. 11. All bonds issued by the District pursuant to the provisions of this Act shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law of the State of Texas.

Sec. 12. The District may, but without intending by this provision to limit any powers of the District as granted to it by this Act, enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or projects as the District may deem desirable or as may be requested by the United States of America, or any corporation or agency created, designated or established thereby, which may assist in the financing of any such project or projects.

Sec. 13. The District shall have power out of any funds available therefor to purchase any bonds issued by it at a price not exceeding the redemption price applicable at the time of such purchase; or if such bonds shall not be redeemable, at a price not exceeding the principal amount thereof plus accrued interest. All bonds so purchased shall be cancelled and no bonds shall ever be issued in lieu thereof.

Sec. 14. 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 preventing the pledging of the revenues of the District as herein authorized. Nothing in the Act shall be construed as authorizing the sale, lease or other disposition of any such property or interest by the District, or any receiver of any of its properties or through any court proceedings or otherwise; provided, however, that the District may sell for cash any such property or interest in an aggregate value not exceeding the sum of Fifty Thousand Dollars (\$50,000) in any one year if the Board, by the affirmative vote of three (3) of the members thereof shall have determined that the same is not necessary or convenient to the business of the District and shall have approved the terms of any such sale; it being the intention of this Act that except by sale as in this Section expressly authorized, no such property or interest shall ever come into the ownership or control, directly or indirectly, of any person, firm or corporation other than a public authority created under the laws of the State of Texas.

Sec. 15. The District shall not prevent free public use of its lands for recreation purposes and for hunting and fishing, except at such points where, in the opinion of the Directors, such use would interfere with the proper conduct of the business or in connection with the enforcement of sanitary regulations or to protect the public's health.

All public rights-of-way not traversing the areas to be flooded by the impounded waters shall remain open as a way of free public passage to and from the lakes created.

Provided, that if any of the land owned by the District bordering the lakes to be created under the authority of this Act be sold by the District, the District shall retain in each tract a strip eighty (80) feet wide abutting the high-water line of the lake for the purpose of passage and use by the public for public sports and amusements; provided further, however, that this provision shall not apply to any sales of land by the District to any

State or Federal agency to be used for game or fish sanctuaries, preserves, or for propagation purposes.

Sec. 16. All bonds and interest thereon issued pursuant to the provisions of this Act shall be exempt from taxation (except inheritance taxes) by the State of Texas or any municipal corporation, county or other political subdivision or taxing district of the State.

Sec. 17. 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 way 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. 18. Exclusion of land. After preliminary surveys have been completed and the District has adopted plans for the construction of improvements to accomplish the purposes for which the District is organized, but before the District calls an election for the authorization of bonds, there must be exclusions of land or other property, if any such exclusions are deemed practicable, just or desirable by means and upon conditions as follows:

The Directors of the District shall give notice of a time and place of hearing to announce their own conclusions as to exclusions of land or other property. Such notice shall be published once in a newspaper of general circulation in the county and such publication shall appear at least fifteen (15) days prior to the date of the hearing. Said notice shall give advice to all interested property owners of their right to present petitions for exclusions and offer evidence in support thereof, or to contest any proposed exclusion and offer evidence in support thereof whether to be based on a petition or upon the Board's own conclusions. Petitions for exclusion of lands must accurately describe the metes and bounds of such lands, and petitions for the exclusion of other property shall describe the same for identification.

In order to give the District an opportunity to investigate the physical conditions of property sought to be excluded, all petitions for exclusions shall be filed with the District not later than five (5) days prior to the hearing, and must clearly set forth the grounds on which exclusion is sought and consideration shall be confined to the stated grounds. Lands or other property included within the boundaries of the District may be excluded only upon one or more of the grounds upon which land may be excluded in a water control and improvement district organized under Chapter 3A of Title 128, Revised Civil Statutes, as amended, and the hearing provided hereunder shall be conducted and may be adjourned from day to day as therein provided. The order of the Board of Directors upon the conclusion of the hearing shall be entered in the manner required by the aforesaid law relating to water control and improvement districts, and shall redefine the boundaries of the District to include all land not excluded.

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitution. If any provisions of this Act

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shall be invalid, such fact shall not affect the creation of the District, or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

Sec. 20. This Act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Sec. 21. If any provisions of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 22. This Act may be cited as the Kimble County River Authority Act.

Sec. 23. This Act shall take effect and be in force from and after its passage.

Sec. 24. The District may acquire the authority to levy an ad valorem tax of not to exceed fifty cents (50¢) per one hundred dollar valuation if (1) a petition, signed by five per cent (5%) of the resident qualified property taxpaying voters in the county, is presented to the Board of Directors of the District asking that an election be called to determine whether a specified rate of tax (or not to exceed a specified rate of tax) may be levied by the District, and (2) the Board of Directors then calls an election to submit such question to the resident qualified property taxpaying voters, and (3) a majority of the qualified property taxpaying voters participating in the election vote in favor of such tax.

The election shall be called, conducted, held, and the returns made thereof and all notices shall be given in the same mode and manner as required by General Law for bond elections in water control and improvement districts.

If the election carries, the Board shall have the authority to levy the amount or not to exceed the amount of tax specified in the petition and order calling the election (so long as the amount of such tax does not exceed fifty cents (50¢) per one hundred dollar valuation). The tax so authorized to be levied may be used to accomplish the purpose of the creation of the District or may be pledged without the necessity of another election to the payment of tax bonds for such purpose in accordance with the General Law governing water control and improvement districts, and the bonds must mature within forty (40) years of their date. Other limitations of this Act shall not apply to the amount of bonds to be issued by this District so long as such obligations and interest thereon may be paid within the limits of the tax authorized, and such bonds shall be issued in conformity with the law governing water control and improvement districts except as modified by the provisions of this Act.

If taxes are levied, the values of the property in said District shall be the same values as are shown on the county tax rolls, and the provisions of the General Law with reference to water control and improvement districts shall govern the appointment, qualification and duties of the District's tax assessor.

Sec. 25. Venue for all suits against the Kimble County River Authority shall lie in Kimble County, Texas, and not elsewhere. Acts 1961, 57th Leg., 1st C.S., p. 60, ch. 23.

Emergency. Effective Aug. 12, 1961.

Section 26 of the Act of 1961, repealed  
art. 8280—253.

Art. 8280—266. El Paso County Water Authority

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a Conservation and Reclamation Authority to be known as "El Paso County Water Authority" (hereinafter called "Authority") which shall be a governmental agency and body politic and corporate.

Sec. 2. The Authority shall contain the following described territory:

Land in El Paso County

The following Sections in Block 77—Township 3: Section Nos. 6, 8, 14, 16, 18, 24, 26, 32, 38, 40, 42, 44, 46, and 48.

The following Sections in Block 78—Township 3: Section Nos. 28, 30, 32, 36, 37, 38, 42 and 48.

The following Section in C. D. Stuart Survey: Section No. 322.

The following Section in W. J. Rand Survey: Section No. 325.

The following Sections in Block 77—Township 3—T & P: Section Nos. 5, 7, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, and 47.

The following Sections in Block 78—Township 3—T & P: Section Nos. 21, 25, 27, 29, 31, 33, 35, 39, 41, 43, 45, and 47.

The following Sections in Block 78, Township 4—T & P: Section Nos. 3 and 5.

The following Sections in Block 79—Township 3—T & P: Section Nos. 3, 11, 15, 17, 19 and 21.

Leigh Clark Survey 291.

Leigh Clark Survey 296.

PUBLIC SCHOOL LANDS—Block 5—The land lying South of Highway 62 in the following Sections—Section Nos. 19, 21, 22, 23 and 24.

PUBLIC SCHOOL LANDS—Block 6: The land lying South of Highway 62 in Section No. 24.

The following Sections in Public School Lands, Block 7: Section Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22 and 23.

The following Sections in Block 77—Township 3: Section Nos. 2, 4, 10 and 12.

The following Sections in Block 77—Township 3: Section Nos. 1, 3, 9 and 11.

It is hereby found that all of the land thus included in said Authority will be benefited by the improvement to be acquired and constructed by said Authority.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be a director unless he resides in the State of Texas. Such directors shall subscribe to the constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000.00) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective, the County Judge of El Paso County shall appoint five (5) directors. All five (5) directors shall be appointed for a term which shall expire the first Tuesday in January, 1963.



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(c) On the second Tuesday in January, 1963 an election shall be held in the District in like manner as prescribed in the provisions of Section 37 of Chapter 25, Acts of the 39th Legislature, as amended by Section 6 of Chapter 107 of the First Called Session of the 40th Legislature (carried forward in Article 7880-37 of Vernon's Civil Statutes) and laws amendatory thereof and supplemental thereto. At such election five (5) directors shall be elected. As shall be determined by lot three (3) of the directors chosen shall serve for a term of one (1) year, and two (2) of the directors shall serve for a term of two (2) years. In the manner prescribed in such Statute, on the second Tuesday in January, 1964, three (3) directors shall be elected and thereafter on the second Tuesday of January of each year in the manner prescribed in such law, two (2) directors or three (3) directors, as the case may be, shall be elected. Directors so elected shall serve for their terms of two (2) years.

(d) Vacancies occurring in the Board of Directors shall be filled for the unexpired term by the County Judge of El Paso County.

(e) Each director shall receive a fee of not to exceed Ten Dollars (\$10.00) for attending each meeting of the Board. Each director shall also be entitled to receive not to exceed Ten Dollars (\$10.00) per day devoted to the business of the Authority and to reimbursement for actual expenses incurred in attending to Authority business provided that such service and expense are expressly approved by the Board.

Sec. 4. The Board of Directors shall elect from its number a president and a vice-president of the Authority, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the Authority and the presiding officer of the Board, and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the Authority. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the Authority.

Sec. 5. The Authority is hereby empowered to acquire by purchase, lease or otherwise, underground water supplies and water wells, and to drill water wells. The Authority is also empowered to construct or otherwise acquire and operate, within or without the Authority, all works, plants, pipelines and other facilities necessary or useful for the purpose of processing and transporting such water, and distributing it for municipal, domestic and industrial purposes, and to purchase water, water supply, or water storage space. The Authority is also empowered to acquire or construct a sanitary sewer system, including treatment and disposal facilities, and may make a contract with any city or private corporation for treatment or disposal of sewage or both treatment and disposal. The Authority also is empowered to construct, maintain and operate within and without the Authority facilities for the drainage of water from the Authority. The Authority is authorized to sell any real or personal property not needed for the exercise of its powers hereunder.

Sec. 6. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority shall have the right to acquire and hold land, improvements, underground water rights or other facilities, by

purchase, lease or otherwise within the Authority, but not by condemnation outside of said Authority; provided, however, the Authority shall have the right to acquire easements for sewer facilities, water pipelines or conveyors of water by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain, and as hereby limited to easements. Provided however, notwithstanding any other provision of this Act, the Authority shall not have the right to condemn, acquire or hold any land, underground water rights or easements within the city limits of any incorporated city, town, or village, or within a five-mile radius thereof, or within a five-mile radius of any water well under the control of any such city, town, or village, or within a five-mile radius of any land reserved by any such city, town, or village for the production of water. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. The Authority shall have the same power as is conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the 39th Legislature, with reference to making surveys and attending to other business of the Authority. Provided further, if such cities, towns, or villages shall hereafter expand their limits or acquire wells or land reserved for water within five miles of any property of the Authority, which property was acquired by the Authority not in violation of this Act, and which property is then actually developed or being developed or in use for the production of water, the Authority may continue to hold and use such property. Anything to the contrary notwithstanding, the Authority shall not be empowered or authorized to condemn surface or underground water rights within or without the limits of the Authority.

(b) In the event that the Authority, in the exercise of the 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 Authority.

Sec. 7. Any construction contract or contract for the purchase of material, equipment or supplies requiring an expenditure of more than Twenty-five Thousand Dollars (\$25,000.00) shall be made to the lowest responsible bidder after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in El Paso County and designated by the Board of Directors.

Sec. 8. (a) For the purpose of providing a source of water supply for cities and other users for municipal, domestic and industrial purposes, and for the purpose of acquiring or constructing drainage facilities and a sanitary sewage system, including sewage treatment and disposal facilities, and for the purpose of extending, repairing and improving its water supply, transportation treatment and distribution properties and its drainage and sewer properties, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds to be payable from such revenues of the Authority as are pledged by resolution of the Board of Directors.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the Authority, signed by the president or vice-president, attested by the secretary, or their facsimile signatures may be printed or lithographed thereon, and have the seal of the Authority impressed thereon, or a facsimile seal may be printed or lithographed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and they may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority, or by the net revenues of any one (1) or more contracts theretofore or thereafter made or other revenues specified by resolution of the Board of Directors or a trust indenture authorized by said Board. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the Authority after deduction of the amount necessary to pay the cost of maintaining and operating the Authority and its properties.

(e) When revenue bonds are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds.

(f) From the proceeds from the sale of the bonds, the Authority may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds or trust indenture.

(g) In the event of a default or a threatened default in the payment of principal of or interest on bonds, any court of competent jurisdiction may, upon petition of holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority, employ and discharge agents and employees of the Authority, take charge of funds on hand and manage the proprietary affairs of the Authority without consent of or hindrance by the directors. Such receiver may also be authorized to sell or make contracts for the sale of water and contracts for sewer service and sewage disposal, or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. It is provided, however, that the resolution authorizing the issuance of the bonds or the trust indenture securing their payment shall specify the minimum per cent of outstanding bonds which must be held by the holders seeking the appointment of a receiver, and may otherwise qualify the right of hold-

ers to institute litigation which might affect the Authority's property or funds.

Sec. 9. The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges and mortgage liens, if any, for the outstanding bonds for the security of refunding bonds, and the refunding bonds may be secured by other or additional revenues. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders 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 resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in a bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 10. Any bonds (including refunding bonds) authorized by this law may be additionally secured by a mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. The trust indenture may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under such trust indenture shall be the owner of the properties and facilities so purchased and shall have the right to maintain and operate the same.

Sec. 11. After any bonds are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. If the Attorney General finds that such bonds have been authorized in accordance with the Constitution and Laws of the State of Texas he shall approve them and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds shall be valid and binding and shall be incontestable for any cause.

Sec. 12. Proceeds from the sale of bonds may be invested in direct obligations of the United States Government, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Associations, Federal Home Loan Banks or Banks for Cooperatives.

Sec. 13. The Authority is authorized to enter into contracts with cities and others for supplying water to them under conditions specified in the resolution authorizing the bonds or the trust indenture securing the bonds. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Sec. 14. (a) The Board of Directors shall designate one or more banks within El Paso County to serve as depository for the funds of the

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Authority. All funds of the Authority shall be deposited in such Depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the Depository banks and the trustee bank are not insured by the F. D. I. C. they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks in the Authority to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be published one (1) time in a newspaper published in the Authority or in El Paso and specified by the Board.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority and which the Board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice or if no such application is accepted, the Board shall designate some bank or banks within or without Authority upon such terms and conditions as it may find advantageous to the Authority.

Sec. 15. All bonds of the Authority 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, guardians, and for the sinking funds 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, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 16. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder, and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state. Acts 1961, 57th Leg., 1st C.S., p. 136, ch. 32.

Effective 90 days after Aug. 8, 1961, date of adjournment.

El Paso County Water Control and Improvement District—Westway, see art. 8280—250.

**Art. 8280—267. Chantilly Oaks Municipal Utility District**

Section 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 in Galveston County, Texas, to be known as "Chantilly Oaks Municipal Utility District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at a point in the North right-of-way line of Farm to Market Road No. 518, said point of beginning being the Southwest corner of the tract herein described, and being S 1° 06' E 3450.0 feet and N 78° 16' 11" E 523.41 feet from the Northwest corner of the Stephen F. Austin League No. 3;

THENCE N 1° 06' W 3305.2 feet to a point in the South bank of Clear Creek;

THENCE in a generally Southeasterly and Easterly direction along the South bank of said Clear Creek, and following its meanders to a point where said South bank of Clear Creek intersects the Southerly right-of-way line of U. S. Highway 75, known as the Gulf Freeway;

THENCE S 27° 36' 48" E along the Southerly line of the said Gulf Freeway (U. S. No. 75) 1717.32 feet to a point for corner;

THENCE S 22° 51' 12" W a distance of 152.03 feet to a point in the North right-of-way line of Farm to Market Road No. 518;

THENCE S 73° 34' 11" W along the North line of said Farm to Market Road No. 518 a distance of 1950.46 feet to an angle point;

THENCE S 78° 16' 11" W along the North line of Farm to Market Road No. 518 a distance of 496.0 feet to a point which is S 1° 06' E 3450.0 feet and N 78° 16' 11" E 523.41 feet from the Northwest corner of the Stephen F. Austin League No. 3, said point being the place of BEGINNING, containing 106.88 acres of land, more or less, out of the Stephen F. Austin League No. 3.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 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 the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4<sup>1</sup> of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941 (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended). Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall have the power to make, construct, or otherwise

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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; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District; and further provided, that before said District shall award contracts for the construction of its improvements it shall submit the plans and specifications for same to the Board of Water Engineers of Texas for approval, and if any substantial changes are thereafter made in such plans, such changes shall also be submitted to said Board for approval. 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, lowering, rerouting, 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.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be W. H. Williams, Frank E. Dailey, George B. Banks, V. C. Olsson, and Paul Early. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Galveston County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Law for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts. Until such election in January, 1963, it shall not be necessary that a Supervisor be a resident of such District or own land subject to taxation therein.

Sec. 4. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are and will be benefited by

the creation of the District and 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. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. It is specifically provided that said District may hereafter consist of tracts of land now separated from the District by a road presently bordering upon said District. Land may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner thereof in the following manner: the owner of the land shall file with the Board of Supervisors a petition praying that the lands described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to a District shall be filed for record and be recorded in the office of the Galveston County Clerk.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein are and will be benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1961, 57th Leg., 1st C.S., p. 142, ch. 33.

<sup>1</sup> Article 7881 et seq.

Effective 90 days after Aug. 8, 1961,  
date of adjournment.

#### Art. 8280—268. Bayshore Municipal Utility District

Section 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 in Harris County, Texas, to be known as "Bayshore Municipal Utility District," consisting of two separate tracts of land, and the boundaries of said District shall be as follows:

##### TRACT NO. 1

BEGINNING at the Southeast corner of the R. V. Whiteside 62.512 acre tract, located in the West right-of-way line of State Highway No. 146, said corner being also the Northeast corner of that certain portion of Shore Acres Addition lying West of State Highway No. 146, and being approximately 5,500 feet South and 5,950 feet East of the Northwest corner of the W. P. Harris Survey, Abstract 30;

THENCE North 89 deg. 59'45" West, along the South line of said R. V. Whiteside 62.512 acre tract, same being the North line of said Shore Acres Addition, a distance of 5,516 feet, more or less, to a point for corner in the East right-of-way line of the G. H. & S. A. Railroad, such point being the Northwest corner of said Shore Acres Addition and the Southwest corner of said R. V. Whiteside 62.512 acre tract;



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

THENCE North 7 deg. 18'32" West, along said East right-of-way line of the G. H. & S. A. Railroad, said line being along the West lines, respectively, of the R. V. Whiteside 62.512 acre tract, the Ralph Liles 52.12 acre tract, the Robert F. Harris 107 acre tract, and the Charles E. McCabe 28 acre tract, and continuing along said East right-of-way line of the G. H. & S. A. Railroad, a total distance of 2,350 feet, more or less, to a point of intersection with a Westerly projection of the North right-of-way line of McCabe Road;

THENCE in an Easterly direction with said Westerly projection of said North right-of-way line of McCabe Road and with said North right-of-way line, same being along the South lines of the B. F. Weems 74 acre tract and Tidewood Addition, and continuing in the same Easterly direction across State Highway 146, a distance of 5,950 feet, more or less, to a point of intersection with the East right-of-way line of State Highway 146;

THENCE in a Southerly direction along said East right-of-way line of State Highway 146 a distance of 100 feet, more or less, to the North line of Pine Bluff Addition;

THENCE in an Easterly direction along said North line of Pine Bluff Addition, a distance of 1,350 feet, more or less, to a point on the West Shoreline of Galveston Bay;

THENCE in a generally Southerly and Easterly direction along the meanders of the West Shoreline of Galveston Bay, same being along the East lines, respectively, of Pine Bluff Addition, Bayside Terrace Addition, and Bay Oaks Addition, and the W. M. Rose 1.08 acre tract, a distance of 3,000 feet, more or less, to the Southeast corner of said W. M. Rose 1.08 acre tract, same also being the Northeast corner of Shore Acres Addition;

THENCE in a Westerly direction along the South lines of the W. M. Rose 1.08 acre tract, 0.39 acre tract, and 0.288 acre tract, same being along the North line of said Shore Acres Addition, and continuing in the same Westerly direction, crossing State Highway 146, a distance of 3,000 feet, more or less, to a point in the West right-of-way line of said State Highway 146;

THENCE in a Northerly direction along said West right-of-way line of State Highway 146, a distance of 125 feet, more or less, to the Southeast corner of the R. V. Whiteside 62.512 acre tract, the point of beginning, said area lying wholly within the W. P. Harris Survey, Abstract 30, Harris County, Texas, and containing 396 acres or 0.62 square miles, more or less.

#### TRACT NO. 2

BEGINNING at the Northwest corner of Shady Oaks Addition in the East right-of-way line of State Highway 146, same being the Southwest corner of that certain portion of Shore Acres Addition lying East of State Highway 146;

THENCE Easterly along the North lines, respectively, of Shady Oaks Addition, the Lloyd T. Moody 14 acre tract and the J. G. Head 42.5 acre tract, the same being along the South line of Shore Acres Addition, a distance of 6,200 feet, more or less, to a point on the West Shoreline of Galveston Bay;

THENCE in a generally Southerly and Easterly direction along the meanders of the West Shoreline of Galveston Bay, same being along the East line of said J. G. Head 42.5 acre tract, a distance of 1,000 feet, more or less, to the Southeast corner of the J. G. Head 42.5 acre tract;

THENCE Westerly with the South lines, respectively, of the J. G. Head 42.5 acre tract, the Lloyd T. Moody 14 acre tract, and Shady Oaks Addition, same being along the North line of the Humble Oil and Refining Company tract, a distance of 6,800 feet, more or less, to a point in the East right-of-way line of State Highway 146, said point being the South-west corner of Shady Oaks Addition;

THENCE Northerly along the East right-of-way line of State Highway 146, same being the West line of Shady Oaks Addition, a distance of 750 feet, more or less, to the Northwest corner of said Shady Oaks Addition, the point of beginning, said area lying wholly within the W. P. Harris Survey, Abstract 30, Harris County, Texas, and containing 108 acres or 0.17 square miles, more or less.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, 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 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 the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941 (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended). By way of limitation, however, it is specifically provided that the boundaries of the District shall in no manner be enlarged or diminished, except by Act of the Legislature; and further said District shall be subject to all the rights, powers, privileges, and duties conferred and imposed by Chapter 128, Acts of the Fiftieth Legislature, Regular Session, 1947, as amended. When and if all the territory within such District is included within the corporate limits of any incorporated city or town, including a Home Rule City, by annexation or otherwise, and the District has been abolished, as provided in said Chapter 128, as amended, in addition to the powers and authority granted by said Chapter 128, as amended, with respect to the issuance of refunding bonds of the city or town to refund outstanding District bonds, said city or town shall have the right to issue its revenue refunding bonds to refund any outstanding revenue bonds or tax-revenue bonds issued by the District, either or both and any or all, such revenue refunding bonds to be issued in the manner provided by Articles 1111 to 1118, both inclusive, Vernon's Texas Civil Statutes, as amended. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided further that said District shall specifically, but not by way of limitation, have the power to construct

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

improvements outside its boundaries to render water or sanitary sewer service or both to users outside the District's boundaries, if the Board of Supervisors determines such services can be rendered without injury to the lands of the District. Such services may be rendered on such terms and conditions as its Board of Supervisors may deem advisable; and further provided that before said District shall award contracts for the construction of its improvements it shall submit the plans and specifications for same to the Board of Water Engineers of Texas for approval, and, if any substantial changes are thereafter made in such plans, such changes shall also be submitted to said Board for approval. 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, re-routing 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, re-routing, 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, lowering, 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.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be Dr. E. R. Hermann, Dr. J. G. Burdick, LeRoy Chase, W. C. Hardy and Otis C. Murray. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the remaining members of the Board of Supervisors shall fill such vacancy by appointment and as provided by General Law for fresh water supply districts. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected as provided by General Law for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1963, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. Within thirty (30) days after said first Board of Supervisors shall have met and organized as herein provided, it shall call an election on the question of the confirmation of the District, and the proposition to be submitted shall be "For Confirmation of the District," and the contrary thereof. The time and place or places of holding said election shall be designated in the election order, and such election shall be held not less than fifteen (15) days from the date of such order. Notice of such election shall be given by posting a substantial copy of the election order at one (1) public place within said District. Such notice shall also be published on the same day in each of two (2) successive weeks in a newspaper of general circulation in said District and published in Harris County, Texas. The date of such posting and the date of the first publica-

tion shall not be less than fourteen (14) days prior to the date set for said election. Only duly qualified resident electors of said District shall vote at said election. Said election shall be held and conducted and returns made to said Board of Supervisors in accordance with the provisions of the General Laws relating to fresh water supply districts. If said election results favorably to such District's confirmation, it may thereafter exercise all the rights, powers, privileges, and duties conferred by this Act and by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to fresh water supply districts. If said election results unfavorably to such District's confirmation, such District shall be automatically dissolved and shall no longer exist.

Sec. 5. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and 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. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 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 therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1961, 57th Leg., 1st C.S., p. 183, ch. 50.

Emergency. Effective Aug. 26, 1961.

#### Art. 8280—269. Liberty County Drainage District No. 5

Section 1. Liberty County Drainage District Number Five, of Liberty County, is hereby created, including within its limits the following territory described by metes and bounds as follows:

"BEGINNING on the East bank of the Trinity River in Liberty County, Texas, at the Northwest corner of Lot #138 of the Hackenberger Subdivision of the South one-half of the B. W. Hardin Survey, Abstract #47;

"THENCE East along the North line of said Lot #138 and continuing East along the North line of a tier of Lots to the intersection of the West right-of-way line of State Highway #146;

"THENCE Northeasterly along the West right-of-way line of said State Highway #146 to the intersection of the North line of Lot #102 of the said Hackenberger Subdivision;

"THENCE East along the North line of said Lot #102 and along the North line of a tier of lots of the said Hackenberger Subdivision to the East line of the said B. W. Hardin Survey;

"THENCE North along the East line of the said B. W. Hardin Survey 706 feet;

"THENCE Easterly to the Northwest corner of the Chas. Underton Survey;

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

"THENCE Southeasterly along the West line of the said Chas. Under-ton Survey to the Southwest corner thereof being in the North line of the P. P. Devers Survey;

"THENCE Northeasterly along the North line of the said P. P. Devers Survey to the intersection of a shell road running generally South across the said P. P. Devers Survey;

"THENCE Southerly and along the said shell road and across the P. P. Devers Survey to the intersection with the North Line of Samuel Jones Survey;

"THENCE Southwesterly along the North line of the said Samuel Jones Survey to the Northwest corner thereof;

"THENCE South along the West line of the said Samuel Jones Survey to the North boundary line of Liberty County Drainage District No. 2, the field note description of which is recorded in Volume E, Page 279 of the Minutes of the Liberty County Commissioners' Court;

"THENCE West in the William Phelps Survey along the North boundary line of the said Liberty County Drainage District No. 2 to the Northwest corner of same;

"THENCE with the boundary of the said Drainage District, South to the most Northern Southeast corner of the James Martin Survey and continuing South in the most Eastern East line of the said James Martin Survey to the Northwest corner of the H. & T. C. Survey No. 168;

"THENCE with the boundary of the said Drainage District No. 2, east with the North line of H. & T. C. R. R. Survey #168 to the intersection of the T. & N. O. R. R. South right-of-way line;

"THENCE with the boundary of the said Drainage District No. 2 in a Southeasterly direction with the South right-of-way line of the said T. & N. O. R. R. to the intersection of the Eastern line of the H. & T. C. R. R. Survey #169;

"THENCE South to the upper Southeast corner of H. & T. C. R. R. Survey No. 169;

"THENCE West with the upper South line of H. & T. C. R. R. survey No. 169 to an inner corner of same.

"THENCE with the boundary of the said Drainage District No. 2, South along the Western line of said H. & T. C. R. R. Survey #169 to the Southeast corner thereof;

"THENCE with the boundary of the said Drainage District No. 2, West along the North line of H. & T. C. R. R. Survey #167 to the Northwest corner thereof;

"THENCE with the boundary of the said Drainage District South along the West line of the said H. & T. C. R. R. Survey #167 to the Southwest corner thereof and continuing South across the Benjamin Freeman Survey to the South line thereof;

"THENCE West along the South line of the Benjamin Freeman Survey to the Southeast corner of the David Minchey Survey;

"THENCE West along the South line of the David Minchey Survey to the East bank of the Trinity River;

"THENCE North along the East bank of the Trinity River to the PLACE OF BEGINNING."

Sec. 2. In creating said District the Legislature hereby exercises the authority upon it conferred by Section 59 of Article XVI of the Constitution of Texas, and declares said District as above described to be essential to the accomplishment of the purposes of said constitutional provision, declares it to be a governmental agency and body politic and

corporate, with such powers of government and with the authority to exercise such rights, privileges and functions as are conferred in this Act and by the General Laws of the State, including Chapters 7 and 8 of Title 128, Revised Statutes of Texas of 1925, including all amendments to said Laws, and including all other General Laws and Special Laws applicable hereto; provided, however, the exercise of the power of eminent domain shall not extend beyond the boundaries of the District, as defined herein. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power created hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties or facilities, or pipeline, all such necessary relocation, raising, re-routing, 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, lowering, 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 facilities.

Sec. 3. No election shall be necessary to authorize the creation of this District. It shall not be necessary for the Commissioners Court of Liberty County to take any steps in reference to the creation of said District, but said Court shall appoint the Commissioners of said District to serve until their successors shall have been elected and qualified under the provisions of the General Laws, in reference to the election of Commissioners for such Districts.

Sec. 4. The General Laws, not in conflict herewith, applicable to Drainage Districts and Conservation and Reclamation Districts, and such other laws as are by Statute made applicable thereto, pertaining to elections for the issuance of bonds, shall apply to the District hereby created: Acts 1961, 57th Leg., 1st C.S., p. 189, ch. 52.

Emergency. Effective Aug. 26, 1961.

## TITLE 130—WORKMEN'S COMPENSATION LAW

### PART 1.

#### Art. 8306. Damages and compensation for personal injuries

##### Art. 8306, sec. 9. Funeral expenses

Sec. 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed Five Hundred Dollars (\$500).

If any deceased employee leaves legal beneficiaries, but is buried at the expense of his employer or any other person, the expense of such burial, not to exceed Five Hundred Dollars (\$500) shall be payable without discount for present payment in addition to the compensation due the beneficiary or beneficiaries of such deceased employee, subject to the approval of the Board. As amended Acts 1961, 57th Leg., p. 1032, ch. 455, § 1.

Emergency. Effective June 17, 1961.

# THE PENAL CODE

## TITLE 2—OFFENSES AND PUNISHMENTS

### CHAPTER TWO—PUNISHMENTS IN GENERAL

Art. 63. 1620, 1016, 820 Third conviction for felony

Narcotics law violations, see art. 725b,  
§ 23.

## TITLE 7—RELIGION AND EDUCATION

### CHAPTER TWO—SUNDAY LAWS

Art.  
286a. Sale of goods on both the two consecutive days of Saturday and Sunday [New].

Art. 286a. Sale of goods on both the two consecutive days of Saturday and Sunday

Prohibition of sales; items; misdemeanor

Section 1. Any person, on both the two (2) consecutive days of Saturday and Sunday, who sells or offers for sale or shall compel, force or oblige his employees to sell any clothing; clothing accessories; wearing apparel; footwear; headwear; home, business, office or outdoor furniture; kitchenware; kitchen utensils; china; home appliances; stoves; refrigerators; air conditioners; electric fans; radios; television sets; washing machines; driers; cameras; hardware; tools, excluding non-power driven hand tools; jewelry; precious or semi-precious stones; silverware; watches; clocks; luggage; motor vehicles; musical instruments; recordings; toys, excluding items customarily sold as novelties and souvenirs; mattresses; bed coverings; household linens; floor coverings; lamps; draperies; blinds; curtains; mirrors; lawn mowers or cloth piece goods shall be guilty of a misdemeanor. Each separate sale shall constitute a separate offense.

Sales for charitable and funeral or burial purposes; real property sales

Sec. 2. Nothing herein shall apply to any sale or sales for charitable purposes or to items used for funeral or burial purposes or to items sold as a part of or in conjunction with the sale of real property.

First offense; subsequent convictions; penalties

Sec. 3. For the first offense under this Act, the punishment shall be by fine of not more than One Hundred Dollars (\$100.00). If it is shown

upon the trial of a case involving a violation of this Act that defendant has been once before convicted of the same offense, he shall on his second conviction and on all subsequent convictions be punished by imprisonment in jail not exceeding six (6) months or by a fine of not more than Five Hundred Dollars (\$500.00), or both.

**Purpose; public nuisances; injunction; application and proceedings**

Sec. 4. The purpose of this Act being to promote the health, recreation and welfare of the people of this state, the operation of any business whether by any individual, partnership or corporation contrary to the provisions of this Act is declared to be a public nuisance and any person may apply to any court of competent jurisdiction for and may obtain an injunction restraining such violation of this Act. Such proceedings shall be guided by the rules of other injunction proceedings.

**Emergency purchases; certification**

Sec. 4a. When a purchaser will certify in writing that a purchase of an item of personal property is needed as an emergency for the welfare, health or safety of human or animal life and such purchase is an emergency purchase to protect the health, welfare or safety of human or animal life, then this Act shall not apply; provided such certification signed by the purchaser is retained by the merchant for proper inspection for a period of one (1) year.

**Occasional sales**

Sec. 5. Occasional sales of any item named herein by a person not engaged in the business of selling such item shall be exempt from this Act.

**Legislative intent**

Sec. 5a. It is the intent of the Legislature that Articles 286 and 287 of the Penal Code of Texas are not to be considered as repealed by this Act; provided, however, that the provisions of said Articles shall not apply to sales of items listed in Section 1 of this Act which are forbidden to be sold on the day or days named in this Act. Acts 1961, 57th Leg., 1st C.S., p. 38, ch. 15.

Effective 90 days after Aug 8, 1961, date of adjournment.



**TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE**

**CHAPTER ONE—PERJURY**

**Art. 302. 304, 201, 188 Definition of perjury**

Perjury is a false statement, either written or verbal, deliberately and willfully made, relating to something past or present, under the sanction of an oath, or such affirmation as is by law equivalent to an oath, where such oath or affirmation is legally administered, under circumstances in which an oath or affirmation is required by law, or is necessary for the prosecution or defense of any private right, or is necessary for the ends of public justice, or is necessary for the conduct of any official hearing, inquiry, meeting, or investigation by any legislative committee or other instrumentality of government having legal authority to issue process for the attendance of witnesses, whether or not such process was in fact issued. As amended Acts 1961, 57th Leg., p. 654, ch. 303, § 22.

Emergency. Effective June 14, 1961.

Sections 1, 2, 4-8, 10-21 of the amendatory Act of 1961 enacted the Legislative Reorganization Act of 1961. See, Vernon's Ann.Civ.St. art. 5429f.

Section 3 of the act amended Vernon's Ann.Civ.St. art. 5429.

Section 9 of the act amended Vernon's Ann.Civ.St. art. 5429e.

Section 23 of the act amended art. 306.

Section 24 of the act repealed Vernon's Ann.Civ.St. art. 5429a.

**Art. 306. 308, 205, 192 Included in perjury**

Included in the description of perjury, whether required by law or merely authorized by law, are all oaths or affirmations legally taken (1) in any stage of a judicial proceeding, civil or criminal, in or out of court, or (2) before a grand jury, or (3) in any stage of a legislative investigation or hearing conducted by either House of the Texas Legislature or conducted by a committee created by either House of the Texas Legislature or conducted by a committee created by joint action of the two Houses, when such House of the Legislature, or such committee or the presiding officer thereof, or the members thereof, are authorized to administer oaths or affirmations, or (4) in any stage of a hearing, inquiry, meeting, or investigation conducted pursuant to law by any governmental agency or instrumentality having legal power to issue process for the attendance of witnesses, whether such process was in fact issued. It shall not be a defense to prosecutions under this Article that the oath or affirmation was not required by law to be administered, if the oath or affirmation was in fact administered under circumstances where the administering of such oath or affirmation was authorized by law. As amended Acts 1961, 57th Leg., p. 654, ch. 303, § 23.

Sections 1, 2, 4-8, 10-21 of the amendatory act of 1961 enacted the Legislative Reorganization Act of 1961. See Vernon's Ann.Civ.St. art. 5429f.

Section 3 of the act amended Vernon's Ann.Civ.St. art. 5429.

Section 9 of the act amended Vernon's Ann.Civ.St. art. 5429e.

Section 22 of the act amended art. 302.

Section 24 of the act repealed Vernon's Ann.Civ.St. art. 5429a.

## CHAPTER SEVEN—FAILURE OF DUTY

## Art. 427b. County clerk's failure of duty as to recording plats

Subdivision plats, recording in counties of less than 190,000 population, see Vernon's Ann.Civ.St. art. 6626a.

## TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

## CHAPTER FOUR—UNLAWFULLY CARRYING ARMS

## Art. 489. 1048 Sale of weapon to minor

Section 1. Whoever shall knowingly sell, or offer for sale, give or barter, or cause to be sold, given or bartered to any person within this State, a switch blade knife, spring blade knife or throw blade knife, or knuckles made of metal or any hard substance shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) or be imprisoned in jail for a period of time not to exceed one (1) year or by both such fine and imprisonment. It shall be a defense to this Act if such switch blade knife, spring blade knife or throw blade knife shall be an antique bought and sold by collectors of such items.

This Act shall not apply to antique or curio firearms which were manufactured prior to 1898 and which may have, as an integral part, a folding knife blade or other characteristics of items prohibited by this Act.

Sec. 2. Whoever shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor a pistol, dirk, dagger, slung shot, blackjack, hand chain, night stick, pipe stick, sword cane, spear, bowie knife or a knife with a blade over five and one half (5½) inches in length, without the written consent of the parent or guardian of such minor, or of someone standing in lieu thereof, shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), or be imprisoned in jail for a period of time not to exceed one year or by both such fine and imprisonment. As amended Acts 1961, 57th Leg., p. 558, ch. 261, § 1.

Emergency. Effective 90 days after May 29, 1961, date of adjournment. Section 2 of the amendatory act of 1961 provided: "This Act does not apply to litigation pending as of the effective date of this Act."

**TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND  
CHASTITY****CHAPTER SEVEN—MISCELLANEOUS OFFENSES**

**Art. 527. 509 Acts involving obscene articles, objects and materials;  
fines and penalties; exemptions**

Section 1. Whoever shall knowingly photograph, act in, pose for, model for, print, sell, offer for sale, give away, exhibit, televise, publish, or offer to publish, or have in his possession or under his control, or otherwise distribute, make, display, or exhibit any obscene book, magazine, story, pamphlet, paper, writing, card, advertisement, circular, print, pictures, photograph, motion picture film, image, cast, slide, figure, instrument, statue, drawing, phonograph record, mechanical recording, or presentation, or other article which is obscene, shall be fined not more than One Thousand Dollars (\$1,000) nor imprisoned more than one (1) year in the county jail or both.

Sec. 2. Whoever shall knowingly offer for sale, sell, give away, exhibit, televise, or otherwise distribute, make, display, or exhibit any obscene book, magazine, story, pamphlet, paper, writing, card, advertisement, circular, print, pictures, photograph, motion picture film, image, cast, slide, figure, instrument, statue, drawing, phonograph record, mechanical recording, or presentation, or other article which is obscene, to a minor shall be fined not more than Two Thousand, Five Hundred Dollars (\$2,500) nor imprisoned in the county jail more than two (2) years or both.

Sec. 3. For purposes of this article the word "obscene" is defined as whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interests. Provided, further, for the purpose of this article, the term "contemporary community standards" shall in no case involve a territory or geographic area less than the State of Texas.

Sec. 4. Whoever shall be convicted for the second time of a violation of this article shall be deemed guilty of a felony and shall be punished by confinement in the State penitentiary for not more than five (5) years or by a fine of not more than Ten Thousand Dollars (\$10,000) or by both such fine and imprisonment.

Sec. 5. It shall be a defense to any charges brought hereunder if such prohibited matter or act shall be regularly in use in any bona fide, religious, educational or scientific institution or the subject of a bona fide scientific investigation.

The provisions of this Act shall not apply to any motion pictures produced or manufactured as commercial motion pictures which (1) have the seal under the Production Code of the Motion Picture Association of America, Inc.; or (2) legally move in interstate commerce under Federal Law; or (3) are legally imported from foreign countries into the United States and have been passed by a Customs Office of the United States Government at any port of entry.

The provisions of this Act shall not apply to any daily or weekly newspaper.

**Sec. 6.** The district courts of this State and the judges thereof shall have full power, authority, and jurisdiction, upon application by any district or county attorney within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this Act. As amended Acts 1955, 54th Leg., p. 386, ch. 107, § 1; Acts 1957, 55th Leg., p. 425, ch. 203, § 1; Acts 1961, 57th Leg., p. 1041, ch. 461, § 1.

Emergency. Effective June 16, 1961.

## TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

### CHAPTER FIVE—PRIZE FIGHTING, ROPING CONTESTS, ETC.

#### Art. 614—2. Deposit of moneys from license and other fees

The Commissioner of the Bureau of Labor Statistics shall deposit all moneys received by him from license and all other fees under the provisions of this Act in the State Treasury to the credit of the General Revenue Fund of the State. As amended Acts 1961, 57th Leg., p. 264, ch. 139, § 1.

Emergency. Effective September 1, 1961.

Section 2 of the act of 1961 provided: "This Act shall become effective on September 1, 1961."

### CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

#### I. INTOXICATING LIQUORS

- Art. 666—15(e). Private club; registration; regulations; permits; licensing fees; violations; penalties [New].
- 666—57. Brewer's permit [New].

#### II. MALT LIQUORS

- Art. 667—5A. Application for renewal of manufacturer's license; grounds for denial [New].
- 667—5b. Engaging in business of brewing and packaging beer; bona fide brewing manufacturer [New].

#### I. INTOXICATING LIQUORS

#### Art. 666—15. Classification of permits

(1a). Nonresident Brewer's Permit. A Nonresident Brewer's Permit shall be required of each brewer located outside the State of Texas before his ale or malt liquor is imported into Texas or offered for sale in Texas.

The annual State fee for a Nonresident Brewer's Permit shall be One Thousand Dollars (\$1,000).

Section 15½A<sup>1</sup> is hereby specifically retained in Article I of the Texas Liquor Control Act, and it is hereby required that the holder of a Nonresident Brewer's Permit shall also be required to hold a Nonresident Seller's Permit. Added Acts 1961, 57th Leg., p. 1126, ch. 511, § 1.

<sup>1</sup> Article 666—15½, subsec. A.

Effective 90 days after May 29, 1961, date of adjournment.

(7). General Class B Wholesaler. A General Class B Wholesaler's Permit shall authorize the holder thereof to:

(a). Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and wine bottlers who are the holders of Nonresident Seller's Permits, and their agents who are the holders of Manufacturer's Agent Permits, and he is further authorized to purchase malt and vinous liquors from holders of Brewer's Permits under this Act and from other Wholesalers within the State;

(b). Sell same in original containers in which received by him to retailers and wholesalers authorized to sell same;

(c). Sell same out of State to qualified persons.

The annual State fee for a General Class B Wholesaler's Permit shall be Two Hundred Dollars (\$200). As amended Acts 1961, 57th Leg., p. 1066, ch. 478, § 1.

(7a). Local Class B Wholesaler. A Local Class B Wholesaler's permit shall authorize the holder thereof to:

(a). Purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and wine bottlers who are the holders of Nonresident Seller's Permits, and their agents who are the holders of Manufacturer's Agent Permits, and he is further authorized to purchase malt and vinous liquors from holders of Brewer's Permits under this Act and from other Wholesalers within the State;

(b). Sell same in original containers in which received by him to retailers in the county of his residence and to other Class B Wholesalers.

The annual State fee for a Local Class B Wholesaler's Permit shall be Fifty Dollars (\$50). Added Acts 1961, 57th Leg., p. 1066, ch. 478, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Section 2 of the amendatory Act of 1961 added art. 666—57; section 3 amended art. 667—5; section 4 added art. 667—5A and 667—5B.

#### Art. 666—15(e). Private club registration; regulations; permits; licensing fees; violations; penalties

##### Sec. 1.

1. For purposes of this Act, the following definition of words and terms shall apply:

(a) "Private Club" shall mean an association of persons, whether unincorporated or incorporated under the laws of the State of Texas, for the promotion of some common object and whose members must be passed upon and elected as individuals, by a committee or board made of members of the club. Such club shall own, lease or rent a building, or space in a building of such extent and character as in the judgment of the Liquor Control Board, is suitable and adequate for its members and their guests and shall provide regular food service adequate for its members and their guests. Its aggregate annual membership fees or dues or other income, exclusive of any proceeds from disposition of alcoholic beverages (themselves not for service thereof), shall be sufficient to defray the annual rental of its leased or rented premises, or, if such premises are owned by the club, shall be sufficient to meet the taxes, insurance and repairs and the interest on any mortgage thereof. Its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. No member or any officer, agent or employee of the club shall be paid or, directly or indirectly, shall receive in the form of salary or other compensation any money from the disposition of any alcoholic beverages (themselves not for service thereof), to the members of the club and guests introduced by members.

(b) "Locker System" shall mean that system of alcoholic beverages storage whereby the club rents to its members lockers wherein the member may store alcoholic beverages for consumption by himself or his guests. All such alcoholic beverages so stored under the 'locker system' shall be purchased and owned by the member as an individual.

(c) "Pool System" shall mean that system of liquor storage where all members of the pool participate equally in the purchase of all alcoholic beverages and the replacement of all alcoholic beverages is paid for by moneys assessed and collected in advance from each member equally. Such pool system shall be legal only in an area which has been voted 'wet' for all alcoholic beverages by the majority of voters at an election held under local option.

(d) All other words and terms used in this Act shall have the same meaning as that contained in the Texas Liquor Control Act.

2. No permittee, licensee, nor any other person shall deliver, transport or carry any alcoholic beverages to, into, or upon the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless such club shall hold a Private Club Registration Permit issued by the Board.

3. No person may store, possess, mix or serve by the drink or in broken or unsealed containers, any alcoholic beverages on the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless such club shall hold a Private Club Registration Permit from the Board.

4. All alcoholic beverages stored or possessed on the premises of any establishment, location, room or place purporting to be a club, or holding itself out to the public or any person as a club or private club, are declared to be an illicit beverage and subject to seizure without a warrant unless a Private Club Registration Permit has been issued by the Board for such premises, location, room or place.

5. A Private Club Registration Permit shall be displayed in a conspicuous place at all times on the licensed premises and shall permit alcoholic beverages owned by members of the club to be stored, possessed, mixed, or consumed and served by the drink or in broken or unsealed containers on the club premises, but only by or to members owning such alcoholic beverages or such members' families or their guests; provided, only a club which conforms to the definition of a "private club" as set forth in Section 1(a) of this Act may obtain a Private Club Registration Permit; and provided further, that acceptance of a Private Club Registration Permit shall constitute an express agreement and consent on the part of the private club that any authorized representative of the Board or any peace officer shall have at all times the right to and privilege of freely entering upon the club premises for the purpose of conducting any investigation or inspecting said premises for the purpose of performing any duty imposed by the Texas Liquor Control Act or by this Act.

6. Any club which conforms to the definition of a 'private club' as set forth in Section 1(a) of this Act shall make application for a Private Club Registration Permit on forms furnished by the Board furnishing to the Board all information necessary to insure compliance with this Act and the Texas Liquor Control Act. Each applicant shall furnish a true copy of his application to the Texas Liquor Control Board District Office in the district in which the premises sought to be covered by the permit is located prior to the filing of the original thereof with the Texas Liquor Control Board at Austin, Texas. Each private club in the State of Texas shall pay a yearly fee to the State for each separate place of business. The license fee shall be based on the highest number of mem-

bers in good standing during the year for which the license fee is to be paid and shall be at the following rates:

0 to 250 = \$ 500.00	651 to 750 = \$1,500.00
251 to 350 = \$ 700.00	751 to 850 = \$1,700.00
351 to 450 = \$ 900.00	851 to 950 = \$1,900.00
451 to 550 = \$1,100.00	951 to 1000 = \$2,000.00
551 to 650 = \$1,300.00	Over 1000 = \$2.00 per member

All Private Club Registration Permits shall expire on August 31st of each year and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Board within thirty (30) days prior thereto. All fees hereunder shall be prorated and collected as provided in Section 15b of the Texas Liquor Control Act. However, Section 15a1 shall not be applicable. Not less than ninety (90) days prior to the expiration of the year for which the license fee is paid, a permittee may submit an amended application with such additional license fee as shall be required under the amended return.

If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or licensee issued the same shall be considered a violation of this Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Board upon request by the Board or any of its authorized representatives.

7. The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

(a) Sold, offered for sale, purchased or held title to any liquor whatsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

(b) Refused to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purposes of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises at any time on Sunday between the hours of 1:15 a. m. and 1:00 p. m., or any other day at any time between the hours of 12:15 a. m. and 7:00 a. m.

(h) Violated any provision of the Texas Liquor Control Act or this Act.



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

7a. An appeal from any order of the Board or Administrator under this Section refusing, canceling or suspending a permit or license may be taken to the District Court of the County in which the aggrieved licensee or permittee, or the owner of involved real or personal property may reside. The proceeding on appeal shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

(b) Such proceedings shall have precedence over all other causes of a different nature.

(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The Substantial Evidence Rule shall have no application in the proceedings of the District Court.

8. (a) The license fee as levied in this Act shall be paid in advance by the private clubs to the Texas Liquor Control Board on or before the last day of August each year.

(b) Any fees collected according to Subsection (a) of this Act shall be deposited to the General Revenue Fund.

9. Any person who violates or assists, aids or abets any violation of this Act or any provision thereof shall be subject to the penalty provided in Article 666-41, Texas Penal Code.

10. Any permittee who violates or assists, aids or abets any violation of this Act or any provision thereof shall subject such permit to suspension or cancellation in accordance with the provisions of the Texas Liquor Control Act.

11. Any alcoholic beverages stored, possessed, delivered, transported or carried in violation of this Act are hereby declared to be illicit beverage and may be seized without warrant. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, Art. 1, § 15(e), added Acts 1961, 57th Leg., p. 559, ch. 262, § 1.

[12] Provided however that nothing in Section 15(e) of Article I of the Texas Liquor Control Act shall apply to Fraternal or Veterans Clubs. Added Acts 1961, 57th Leg., p. 559, ch. 262, § 1A.

Emergency. Effective September 1, 1961.

Penalties for violations of liquor control act, see art. 666-41.

#### **Art. 666—41. Penalty for violations of act**

Private club registration, violations, see art. 666-15(e).

## Art. 666—57. Brewer's permit

Regardless of any other provision of the Texas Liquor Control Act, any person who has theretofore been issued a Manufacturer's License or any renewal thereof under Article II<sup>1</sup> of the Texas Liquor Control Act, and so long as such Manufacturer's License or any renewal thereof remains in force, shall be entitled to the issuance, for the same location, of a Brewer's Permit, as well as renewals thereof, upon written application to the Board and payment of the fee therefor.

Regardless of any other provision of the Texas Liquor Control Act,<sup>2</sup> no person who has theretofore been issued a Manufacturer's License or a Brewer's Permit shall subsequently be denied a Manufacturer's License or any renewal of a Manufacturer's License, or a Brewer's Permit or any renewal of a Brewer's Permit, for the same location on the grounds that the sale of beer or ale has been prohibited by local option in the area in which the licensed premises are located and, except for the right to make sales of beer or ale contrary to such local option prohibition, any Manufacturer's License or Brewer's Permit so previously held, or issued or renewed under this provision shall authorize its holder to do all things which such a holder is authorized to do under any provision of the Texas Liquor Control Act, as herein or hereafter amended, including but not limited to the manufacture, brewing, possession, storage, packaging, and transportation of beer or ale to areas wherein the sale of beer or ale is legal, and including the delivery at such holder's licensed premises of beer or ale to purchasers domiciled outside Texas, common carriers, contract carriers, or other carriers duly authorized to transport beer or ale, Distributors and/or Class B Wholesalers, and all such purchasers, carriers, Distributors and Class B Wholesalers are hereby authorized to receive at such holder's licensed premises such beer or ale for transportation to an area wherein the sale of beer or ale is legal, after the occurrence, in an area wherein the sale of beer or ale is legal, of the following: prior order, acceptance of such order, and either payment for same or legal satisfaction of payment for same.

Regardless of any other provision of the Texas Liquor Control Act, any holder of a Manufacturer's License or a Brewer's Permit is hereby authorized to manufacture or brew malt beverages and package same in containers for shipment outside the State of Texas, even though the alcoholic content of such products, or the containers in which they are packaged, or the packages themselves, or the labels on the containers or the packages would make such products illegal for sale in Texas, and any such holder shall have the right to export such products to points outside Texas, and to make deliveries at such holder's premises for shipment outside Texas, without being liable for any tax imposed by the State of Texas on beer or ale sold for resale in Texas. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 1, § 57, added Acts 1961, 57th Leg., p. 1066, ch. 478, § 2.

<sup>1</sup> Article 667—1 et seq.

<sup>2</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after May 29, 1961, date of adjournment.

## II. MALT LIQUORS

## Art. 667—3. License required

(a-1). Nonresident Manufacturer's License. A Nonresident Manufacturer's License shall authorize the holder thereof to have his beer received in Texas only by holders of Importer's Licenses, and no holder of

an Importer's License shall import beer into this State except from the holder of a Nonresident Manufacturer's License; provided that no beer shall be imported into this State except in accordance with the provisions of this Act, that is, in barrels, or other containers, and shall at no time be shipped into this State in tank cars; provided that the Texas Liquor Control Board shall have the same functions, powers and duties to adopt and enforce a standard of quality, purity and identity of malt beverages, and to promulgate all rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, purifying, bottling, and rebottling of beer under a Nonresident Manufacturer's License as apply to Manufacturers located within the State of Texas. The holder of a Nonresident Manufacturer's License is hereby made subject to the provisions of the Texas Liquor Control Act and to all rules and regulations of the Texas Liquor Control Board applicable to holders of Manufacturer's Licenses, and the Texas Liquor Control Board shall have the same power to suspend and cancel such Nonresident Manufacturer's License and otherwise levy and enforce penalties for infractions of the law or of the rules and regulations of the Board as is granted with respect to holders of Manufacturer's Licenses under the Texas Liquor Control Act. Any beer imported into this State for sale in this State in violation of this paragraph is hereby declared to be an illicit beverage.

Annual State fee for a Nonresident Manufacturer's License shall be Five Hundred Dollars (\$500), and no county or city shall be entitled to a fee for the issuance thereof. Added Acts 1961, 57th Leg., p. 1126, ch. 511, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

(k). (1). Agent's Beer License. Agents, representatives and employees of beer manufacturers located within or without the State, which agents, representatives and employees engage in selling, offering to sell, soliciting, displaying, advertising or otherwise promoting sales of beer by personal contact with licensed retailers of beer, their agents, servants or employees, and/or consumers of beer, and whose compensation for employment is based mainly on such activities by such personal contact as opposed to similar activities by personal contact with licensed distributors of beer; and agents, representatives and employees of licensed distributors of beer who engage in selling, offering to sell, soliciting, displaying, advertising or otherwise promoting sales of beer by personal contact with licensed retailers of beer, their agents, servants or employees, and/or consumers of beer, and whose compensation for such employment is based mainly on such activities by such personal contact, are hereby required to have a license issued by the Board and designated "Agent's Beer License."

(2). It shall be unlawful for any person to engage in the activities set out in paragraph (1) hereof unless he is the holder of a valid Agent's Beer License, and upon conviction of any person for violation of this Section he shall be punished as is provided in Section 41<sup>1</sup> of Article 1 of this Act. A period of grace of five (5) days, which shall be the first five (5) days of his activities as set out in paragraph (1) hereof, is hereby extended to such person, during which period he shall procure an Agent's Beer License from the Texas Liquor Control Board. No such license shall be granted to any person until it shall be shown to the satisfaction of the Board that he is employed or has good prospects of being employed to act as agent or a representative for the holder of a Manufacturer's or Distributor's License.

(3). It shall be unlawful except during the five-day grace period set out in paragraph (1) hereof for any Manufacturer or Distributor to use or be the beneficiary of the services of any person to carry on the activities set out in paragraph (1) hereof unless such person is the holder of a valid Agent's Beer License.

(4). It shall be unlawful for any Manufacturer located within or without the State or any Distributor to employ in any capacity or to continue in his employ a person who has been issued an Agent's Beer License during a time when such license is under a suspension order of the Board or within one (1) year from the date of cancellation for cause of such license by the Board.

(5). The Board is given authority to promulgate and enforce reasonable rules and regulations defining the qualifications and regulating the conduct of any such licensed agent.

(6). All applications for such licenses shall be filed with the Board, or any designated employee of the Board, on such form and including therein such required information as may be prescribed by the Board. Such application shall be acted upon exclusively by the Board or the Administrator, or a designated employee of the Board, and the County Judge shall not receive such applications nor shall he have jurisdiction over the approval or issuance of such licenses.

(7). All such licenses shall be issued on an annual basis and shall expire one (1) year from the date of issue. Applications for renewal of such licenses shall be filed with the Board not more than thirty (30) days prior to the expiration date thereof on forms requiring such information as may be prescribed by the Board.

(8). Any Agent's Beer License may be suspended or cancelled by the Board for violation of any of the rules or regulations of the Board, or for any of the reasons the license of a Manufacturer or Distributor may be suspended or cancelled, and the same procedure applicable to the suspension or cancellation of the Manufacturer's or Distributor's license shall be followed in the suspension or cancellation of such Agent's Beer License.

(9). The annual fee for an Agent's Beer License shall be Three Dollars (\$3), and cities and counties shall not have the authority to assess a fee for the issuance of such licenses. It is hereby declared to be a violation of the Texas Liquor Control Act for any Manufacturer or Distributor to pay the license fee for any person licensed hereunder, or to reimburse any person for such payment. The Board shall not refund any part of the fee collected hereunder to any person for any reason. Added Acts 1961, 57th Leg., p. 1058, ch. 471, § 1.

<sup>1</sup> Article 666—41.

Effective 90 days after May 29, 1961, date of adjournment.

#### Art. 667—5. Application for license

Any person may file an application for a license as a Manufacturer, Distributor or Retail Dealer of beer in vacation or in termtime with the County Judge of the county in which the applicant desires to engage in such business. The County Judge shall refuse to approve the application for such license if he has reasonable grounds to believe and finds any of the following to be true:

1. If a Manufacturer:

The applicant for an original license, if a Texas corporation, a foreign corporation qualified to do business in Texas, a natural person,

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

association of natural persons, partnership, trustee, receiver, administrator or executor, has failed to state under oath, subscribed to by one of its principal officers if a corporation, that it will be actually engaged in the business of brewing and packaging beer in Texas within the three-year period covered by its original license and two (2) successive renewals thereof in such quantities as will make of its operation that of a bona fide brewing manufacturer, except that such sworn statement shall never be required of any holder of a Manufacturer's License in effect on January 1, 1953, or any renewal thereof. As amended Acts 1961, 57th Leg., p. 1066, ch. 478, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 667—5A. Application for renewal of manufacturer's license; grounds for denial**

Regardless of any other provision of the Texas Liquor Control Act<sup>1</sup> :

1. During a period of two (2) years from and after the date of the original Manufacturer's License applied for in accordance with Section 5, paragraph 1, hereof, an application for a renewal of such Manufacturer's License shall not be denied on the grounds that the applicant has not brewed and packaged beer in Texas within the period covered by such Manufacturer's License or will not brew and package beer in Texas within the period to be covered by such renewal so long as such applicant is in good faith engaged in the construction of a plant for the brewing of beer on the licensed premises, or engaged in any of the following things which will enable such applicant to commence such construction: (i) preliminary engineering, (ii) preparing drawings and specifications, (iii) conducting engineering, architectural or equipment studies, or (iv) preparing for and taking bids from contractors; and during a period of three (3) years from the date of the original Manufacturer's License, and so long as the holder of such Manufacturer's License is engaged in such construction or one of the other preliminary preparations described in this paragraph, the Board shall be diligent in granting renewal licenses, and shall issue each renewal license in such time as to make it immediately effective on the expiration of the original or renewal license which preceded it, and during a period of three (3) years from the date of the original Manufacturer's License, so long as the holder of such Manufacturer's License is engaged in such construction or one of the other preliminary preparations described in this paragraph, the Board shall not require him to file an original application for a Manufacturer's License.

2. After the expiration of two (2) years and eleven (11) months from the date of the original Manufacturer's License applied for in accordance with Section 5, paragraph 1, hereof, if such Manufacturer fails to perform under the sworn statement described in said Section 5, paragraph 1, hereof, or is actually not engaged in the construction of such a plant or is not engaged in the other preliminary preparations set out in paragraph 1 of this Section 5A, then his license shall not be subject to renewal unless, for good cause shown, the Board finds that the applicant has been unable, due to causes beyond his reasonable control, fully to perform under said sworn statement, in which event the Board may grant one additional renewal of said license as time in which to comply with the terms of the sworn statement required in said Section 5, paragraph 1, hereof. When any such license is denied renewal under these circumstances, no subsequent original application by such applicant shall be granted during the succeeding two (2) years from the date of such denial.

3. The provisions of paragraphs 1 and 2 of this Section 5A shall not ever apply to the holder of any Manufacturer's License in effect on January 1, 1953, or any renewal thereof. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 5A, added Acts 1961, 57th Leg., p. 1066, ch. 478, § 4.

<sup>1</sup> Articles 666—1 et seq., 667—1 et seq.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 667—5B. Engaging in business of brewing and packaging beer; bona fide brewing manufacturer**

The Texas Liquor Control Board is hereby vested with the authority to determine if the applicant has actually engaged in the business of brewing and packaging beer in Texas in such quantities as will make of its or his operation that of a bona fide brewing manufacturer, and if, during a period of two (2) years and eleven (11) months from the date of the original Manufacturer's License, he or it has actually engaged in good faith in the construction of a plant or engaged in other preliminary preparations set out in paragraph 1 of Section 5A <sup>1</sup> hereof. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 5B, added Acts 1961, 57th Leg., p. 1066, ch. 478, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 667—28. Samples and labels**

It shall be unlawful for any person to ship or cause to be shipped into this State, or to import into this State, or to manufacture and then offer for sale within this State, or to distribute, sell or store within this State any beer, ale or malt liquor unless and until a sample of such beer, ale or malt liquor, or a sample of the same type and quality of beer, ale or malt liquor, has been submitted to the Texas Liquor Control Board for the purpose of analysis, and has been found by the Texas Liquor Control Board or its representatives to be in compliance with all rules and regulations of the Board relating to quality, purity and standards of measure.

It shall also be unlawful for any person to import any beer, ale or malt liquor into this State, or to manufacture or brew and then offer for sale within this State, or to distribute and then offer for sale within this State, or to distribute, sell or store within this State any beer, ale or malt liquors unless and until the label thereof has been submitted to the Texas Liquor Control Board or its authorized representatives, and such label has been approved by the Texas Liquor Control Board or its authorized representatives as being in compliance with all rules and regulations of the Texas Liquor Control Board or any provision of the Act relating to the labeling of beer, ale or malt liquor. Any beer, ale or malt liquor so imported into this State, or manufactured or brewed and then offered for sale within this State, in violation of this Section shall be an illicit beverage.

Only the holder of a Brewer's Permit or a Nonresident Brewer's Permit or a Manufacturer's License or a Nonresident Manufacturer's License is authorized to apply for and receive label approval on beer, ale or malt liquor. Provided however, that the provisions of this Section shall not apply in any case where beer, ale or malt liquor is imported into this State for personal consumption and not for sale. As amended Acts 1961, 57th Leg., p. 1126, ch. 511, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 12—PUBLIC HEALTH

### CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art. 698b. Repealed. Acts 1961, 57th Leg., 1st C.S., p. 156, ch. 42, § 14.  
Eff. Nov. 1, 1962

See, now, Vernon's Ann.Civ.St. art. 7621d.

### CHAPTER TWO—UNWHOLESOME FOOD, DRINK OR MEDICINE

Arts. 706-709. Repealed. Acts 1961, 57th Leg., p. 823, ch. 373, § 24.  
Eff. 90 days after May 29, 1961, date of adjournment

See, now, Texas Food, Drug and Cosmetic Act, Vernon's Ann.Civ.St. art. 4476-5.

Art. 712. [706] Milk

Texas Equal Health Standard Milk Sanitation Act of 1961, see Vernon's Ann.Civ. St. art. 165-3a.

Art. 717. Repealed. Acts 1961, 57th Leg., p. 823, ch. 373, § 24. Eff. 90 days after May 29, 1961, date of adjournment

See, now, Texas Food, Drug and Cosmetic Act, Vernon's Ann.Civ.St. art. 4476-5.

719a. Marketing citrus fruit unfit for consumption

Texas Food, Drug and Cosmetic Act, see Vernon's Ann.Civ.St. art. 4476-5.

### CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art. 725b. Narcotic drug regulations

#### Penalties

Sec. 23. (1) Any person who sells or offers to sell any narcotic drug as prohibited by this Act shall upon conviction be punished by confinement in the penitentiary for not less than five (5) years nor more than life, and upon the second or any subsequent conviction thereof shall be punished by confinement in the penitentiary for life or for any term of years not less than ten (10); any person violating any other provision of this Act shall, upon conviction, be punished by confinement in the state penitentiary for not less than two (2) years nor more than life, and upon the second or any subsequent conviction therefor shall be punished by confinement in the penitentiary for life or for any term of years not less than ten (10), and the benefits of the suspended sentence law shall not be available to a defendant convicted for a violation of any of the provisions of this Act; provided that any person convicted of a first offense

violation of this Act shall be entitled to the benefits of probation under the Adult Probation and Parole Law,<sup>1</sup> as provided therein. Nothing contained herein shall be construed so as to prevent the application of the enhanced penalty provision of Article 63 of the Penal Code of Texas, 1925. As amended Acts 1961, 57th Leg., p. 315, ch. 167, § 1.

<sup>1</sup> Article 718b.

Emergency. Effective May 17, 1961.

Third conviction for felony, see art. 63.

Adult probation and parole law, see  
Vernon's Ann.C.C.P. art. 781d.

**Art. 725c. Narcotics addicts****Definition**

Section 1. The term "narcotic drugs" as used in this Act shall have the same meaning as the definition of that term in Chapter 169, Acts of the Forty-fifth Legislature, Regular Session, 1937 (Uniform Narcotic Drug Act)<sup>1</sup> as amended by subsequent Acts of the Legislature; however, upon a trial for a violation of any provision of this Act, a conviction may be had where the indictment alleges the habitual use of, addiction to, or being under the influence of a "narcotic drug," and it shall be unnecessary to name any specific narcotic drug in the indictment. Proof that a person is a habitual user of, addicted to or under the influence of one or more narcotic drugs shall be sufficient to support a conviction for a violation of any provision of this Act. As amended Acts 1961, 57th Leg., p. 310, ch. 161, § 1.

<sup>1</sup> Article 725b.

Effective 90 days after May 29, 1961, date  
of adjournment.

**CHAPTER FOUR—BARBER SHOPS AND  
BEAUTY PARLORS****Art. 734a. Texas Barber Law****Permit to operate barber school or college**

Sec. 9. (a) Any firm, corporation, partnership or person desiring to conduct or operate a barber school or college in this State shall first obtain a permit from the State Board of Barber Examiners after demonstrating that said school or college has first met the requirements of this Section. Said permit shall be prominently displayed at all times at such school or college. No such school or college shall be approved unless such school or college requires as a prerequisite to graduation a course of instruction of not less than twelve hundred (1,200) hours, to be completed within a period of not less than seven (7) months for a 'Class A' certificate and not less than one thousand (1,000) hours, to be completed within a period of not less than six (6) months for a 'Class B' certificate; and no certificate or permit shall be issued as provided for herein to an applicant to be a student in such a school or college unless said applicant demonstrates his or her ability to read intelligently and write clearly the English language determined by an examination conducted by the school or college.

(b) Such schools or colleges shall instruct students in such subjects as may be necessary and beneficial in teaching the practice of barbering, including the following subjects: scientific fundamentals of barbering; hygienic bacteriology, histology of the hair, skin, muscles, and nerves;



For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

structure of the head, neck and face; elementary chemistry relating to sterilization and antiseptics; common disorders of the skin and hair; massaging and manipulating the muscles of the scalp, face, and neck; hair-cutting; shaving, shampooing, and bleaching and dyeing of the hair. However, if said school does not care to teach persons who apply for "Class A" but only "Class B" certificates, shaving need not be taught.

(c) No barber school or college which issues "Class A" certificates shall be approved by the Board for the issuance of a permit unless said school or college has the following:

(1) An adequate school site housed in a substantial building of a permanent-type construction containing a minimum of not less than two thousand, eight hundred (2,800) square feet of floor space. Such space shall be divided into the following separate departments: a senior department, a junior department, a class theory room, a supply room, an office space, a dressing and cloak room, and two (2) sanitary, modern separate rest rooms, equipped with one (1) commode each and a urinal in one (1) rest room.

(2) A hard-surface floor covering of tile or other suitable material.

(3) A minimum of twenty (20) modern barber chairs with cabinet and mirror for each chair.

(4) One (1) lavatory in back of each two (2) chairs.

(5) A liquid sterilizer for each chair.

(6) An adequate number of latherizers, vibrators, and hair dryers for the use of students.

(7) Adequate lighting of all rooms.

(8) At least twenty (20) classroom chairs, a blackboard, anatomical charts of the head, neck and face, and one (1) barber chair in the class theory room.

(9) A library and library facilities available to students, containing a medical dictionary and a standard work on the human anatomy.

(10) Adequate drinking fountain facilities, but at least one (1) to each floor.

(11) Adequate toilet facilities for the students.

(12) Adequate fire-fighting equipment to be maintained in case of emergency.

(d) Anything to the contrary in this Act notwithstanding, each such school shall place a sign on the front outside portion of its building in a prominent place. Such sign shall read "BARBER SCHOOL—STUDENT BARBERS", and shall be a minimum size of ten-inch block letters. Printed signs containing the foregoing information shall be prominently displayed upon each inside wall of the establishment

(e) A minimum of five (5) one-hour periods of each week shall be devoted to the instruction of theory in the classroom with Saturdays being devoted exclusively to practical work over the chair. An attendance record book must be maintained by the school showing a record of the students' daily attendance. These records are subject to inspection at any and all times by the Board.

(f) No barber school or college which issues "Class A" certificates shall be approved by the Board unless it is under the direct supervision and control of a barber who holds a current registered "Class A" certificate to practice barbering under the Texas Barber Law, and who can show evidence of at least five (5) years experience as a practicing barber.

Each school shall have at least one (1) teacher who has a teacher's certificate issued by the Board upon examination and who is capable and qualified to teach the curriculum outlined herein to the students of such school. All such teachers are required to obtain a teacher's certificate from the Board and, in addition to requirements set forth by the Board, must meet the following requirements:

(1) Demonstrate their ability to teach the said curriculum outlined herein through a written and practical test to be given by the Board.

(2) Hold a current certificate as a registered "Class A" barber under this law.

(3) Demonstrate to the Board that such applicant is qualified to teach and instruct, to be determined at the discretion of the Board, and show evidence that the applicant has had at least six (6) months experience as a teacher in an approved school or college in Texas or in another state approved by the Board, or have completed a six-month postgraduate course as a teacher in an approved barber school or college in Texas.

Applicants desiring an examination for a teacher's certificate shall make an application to the Board and accompany same with an examination fee of Twenty-five Dollars (\$25). A new application and fee must be presented for each examination taken by the applicant and fees paid are not refundable. Teacher's certificates shall be renewed annually between September 1st and November 1st upon the payment of a renewal fee of Ten Dollars (\$10). All persons engaged in teaching in a barber school or college at the time this law becomes effective, and who shall have had at least six (6) months experience as a teacher in a barber school or college in Texas and who is a "Class A" registered barber shall be exempt from such examination to be given by the Board if such applicant shall, within sixty (60) days after the date this law becomes effective, make application to the Board showing that such applicant meets all the requirements herein for a teacher's certificate, except for such examination, and shall pay a fee of Twenty-five Dollars (\$25) to accompany the application.

(g) In addition to a minimum of one (1) teacher required in paragraph (3) above, each barber school or college which issues "Class A" certificates shall maintain at least one (1) qualified instructor, holding a registered "Class A" certificate, for each twenty (20) students or any fraction thereof for instruction in practical work; provided, however, that a teacher can also serve as an instructor in practical work in addition to his position as a theory teacher.

(h) No barber school or college shall be issued a permit to operate under the provisions of this Section until it has first furnished the following evidence to the Board:

(1) A detailed drawing and chart of the proposed physical layout of such school, showing the departments, floor space, equipment, lights and outlets.

(2) Photographs of the proposed site for such school including the interior and exterior of the building, rooms and departments.

(3) A detailed copy of the training program.

(4) A copy of the school catalog and promotional literature.

(5) A copy of the building lease or proposed building lease where the building is not owned by the school or college.

(6) A sworn statement showing the true ownership of the school or college.

(7) An application fee of Two Hundred Dollars (\$200).

For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

No such school or college shall be operated and no students shall be solicited or enrolled by it until the Board shall determine that the school has been set up and established in accordance with this Section and the proposal submitted to the Board and approved by it prior to the issuance of a permit. Any such school or college must obtain renewal of its certificate by September 1st each year by the payment of an annual renewal fee of One Hundred Dollars (\$100).

(i) When a barber school or college changes ownership, the Board shall be notified of the transfer within ten (10) days from the date of such change.

(j) Any school or college desiring to change the location of such school or college must first obtain approval by the Board by showing that the proposed location meets the requirements of this Section.

(k) If said Board refuses to issue a permit to any such school or college, such school or college may by written request demand the reasons for said refusal and if said school or college shall thereupon meet said requirements and makes a showing that the requirements of this law have been complied with, then if said Board refuses to issue said permit, a suit may be instituted by such school or college in any of the District Courts of Travis County, Texas, to require said Board to issue such permit. Any such suit must be filed within twenty (20) days after the final order of said Board refusing to issue such permit is entered, provided registered notice is mailed or it is otherwise shown that said school or college has notice within ten (10) days from the entering or making of said order.

(l) In the event such school or college after a permit is issued to it violates any of the requirements of this law, either directly or indirectly, then said Board shall suspend or revoke the permit of any such school or college. Before suspending or revoking any such permit, said Board must give such school or college a hearing, notice of which hearing shall be delivered to such school or college at least twenty (20) days prior to the date of said hearing. If said Board suspends or revokes said permit at said hearing, then such school or college may file suit to prevent the same or to appeal from said order. Any and all suits filed hereunder shall be filed within twenty (20) days from the date of the order of said Board in any of the District Courts of Travis County, Texas, and not elsewhere, and the order shall not become effective until said twenty (20) days has expired.

(m) The Attorney General or any District or County Attorney may institute any injunction proceedings or such other proceeding as to enforce the provisions of this Act, and to enjoin any barber, assistant barber, or school or college from operating without having complied with the provisions hereof, and each shall forfeit to the State of Texas the sum of Twenty-five Dollars (\$25) per day as a penalty for each day's violation, to be recovered in a suit by the District or County Attorney, and/or the Attorney General.

(n) Nothing in this Section shall prevent the practice of barbering or practice as a hairdresser or cosmetologist by present holders of "Class B" certificates, but any persons obtaining a "Class B" certificate as that term is defined in House Bill No. 104, Acts of the Forty-first Legislature, First Called Session, 1929, as amended (codified as Article 734a, Penal Code of the State of Texas), after the effective date of this Act shall not engage in the practice of barbering as barbering is defined in the said House Bill No. 104. As amended Acts 1961, 57th Leg., p. 601, ch. 287, § 1.

**Annual renewal of certificates; fee; restoration of expired certificates**

Sec. 20. Every registered barber and every registered assistant barber, who continues in active practice or service, shall annually, on or before the first day of November of each year, renew his certificate of registration which shall be issued by the Board of Barber Examiners upon the payment of a renewal fee of Eight Dollars (\$8); provided, however, holders of "Class B" certificates shall be entitled to the renewal of such certificate by the payment of a renewal fee of Five Dollars (\$5). Every certificate of registration which has not been renewed prior to that date shall expire on the first day of November of that year. A registered barber or a registered assistant barber, whose certificate of registration has expired, may, within thirty (30) days thereafter, and not later, have his certificate of registration restored upon making a satisfactory showing to the Board, supported by his personal affidavit, which in the opinion of the Board, will excuse the applicant for having failed to renew his certificate within the time required by this Act. Any registered barber who retires from the practice of barbering for not more than five (5) years may renew his certificate of registration by making proper showing to the Board, supported by his personal affidavit, which, in the opinion of the Board, would justify the Board in issuing a certificate to such applicant as upon an original application upon payment of a fee of Ten Dollars (\$10) when filing affidavit as fee for making examination. Provided, however, that any registered barber who retires from the practice of barbering for more than five (5) years may renew his certificate of registration by making application to the Board and by making proper showing to the Board, supported by his personal affidavit, and by paying a fee of Ten Dollars (\$10) and by passing a satisfactory examination conducted by the Board. As amended Acts 1961, 57th Leg., p. 601, ch. 287, § 2.

**Officers of Board; compensation of members; compensation and bond of secretary**

Sec. 27. The State Board of Barber Examiners shall elect one of its members as president, and shall elect a secretary and such other employees, as may be necessary, to carry out the provisions of this Act and House Bill No. 104, Chapter 65, Acts of the Forty-first Legislature, First Called Session, as amended, and provide for the compensation of such secretary and other employees. Said Board shall maintain its office in the State Office Building in the City of Austin, Texas, and shall adopt rules and regulations for the transaction of the business herein provided for, including a common seal for the authentication of its orders, certificates and records. The secretary shall keep a record of all proceedings of the Board and shall be the custodian of all such records and shall receive and receipt for all money collected by the Board. All money so received shall be immediately deposited with the State Treasurer, who shall credit same to a special fund to be known as "State Board of Barber Examiners Fund," which money shall be drawn from said special fund upon claims made therefor by the Board to the Comptroller; and if found correct, to be approved by him and vouchers issued therefor, and countersigned and paid by the State Treasurer, which special fund is hereby appropriated for the purpose of carrying out all the provisions of this Act. Annually at the close of business on August 31st of each year, a complete report of the business transaction by the Board showing all receipts and disbursements shall be made by the Board to the Governor of the State of Texas.

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The secretary shall give a surety bond, payable to the State of Texas in the sum of Five Thousand Dollars (\$5,000), conditioned for the faithful performances of his duties as secretary, to be approved by the Board and filed with the State Comptroller. A majority of the Board in meetings duly assembled may perform and exercise all the duties and powers devolving upon the Board.

The compensation of the members of the Board shall be a per diem as set by the General Appropriations Act, and in addition to the per diem provided for herein, they shall be entitled to traveling expenses in accordance with the appropriate provisions of the General Appropriations Act. Each Board member shall make out, under oath, a complete itemized statement of the number of days engaged and the amount of his expenses when presenting same for payment. As amended Acts 1961, 57th Leg., p. 601, ch. 287, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

The amendatory act of 1961, section 4, provided:

"Persons to whom certificates of registration have been issued or who had made application for registration and paid the fee therefor before the effective date of this Act shall not be required to pay any addi-

tional amount for the current registration period on account of the increase in fees made by this Act.

No barber college or institution authorized under this Act may charge more than the actual cost for any barber work or services performed by students or trainees of the institution."

## CHAPTER SEVEN—DENTISTRY

Art.

751a. Narcotic Drugs [New].

### Art. 751a. Narcotic Drugs

It shall be unlawful for a dentist to prescribe, provide, obtain, order, administer, give, or deliver to or for any person, narcotic drugs not necessary or required, or where the use or possession of same would promote or further addiction thereto, or to aid, abet, or cause any of same to be done in any manner. Added Acts 1961, 57th Leg., p. 1101, ch. 496, § 1.

Emergency. Effective June 17, 1961.

Section 2 amended art. 4550a §§ 3, 4; section 3 amended art. 4544; section 4 amend-

ed art. 4551e; section 5 amended art. 4550a § 1.

### Art. 753. Exceptions

(8). Dental Health Service Corporations legally chartered under Subsection (1) of Article 2.01, of the Texas Nonprofit Corporation Act. Added Acts 1961, 57 Leg., p. 959, ch. 418, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

Similar provisions, see Vernon's Ann.Civ. St. art. 4551b.

Incorporation of dental health service corporations, see Texas Non-Profit Corporation Act, art. 2.01, Vol. 3A, pocket part.

## TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

## CHAPTER ONE—HIGHWAYS AND VEHICLES

## Art. 827a, sec. 8. Rate and speed of vehicle

## Subsection 1(b).

(5) The speed for any motor vehicle engaged in this State in the business of transporting passengers for compensation or hire or for any commercial vehicle which is in authorized use as a "Highway Post Office" vehicle for furnishing Highway Post Office service in transportation of United States mail shall be the same as prescribed for all vehicles except commercial vehicles, trucks, tractors, trailers, or semitrailers as provided in paragraph (2) as hereinbefore set forth. As amended Acts 1961, 57th Leg., p. 662, ch. 304, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Subsection 2A. Authority of Texas Turnpike Authority to alter Maximum Prima Facie Speed Limits on Turnpike Projects.

(a) Whenever the Texas Turnpike Authority shall determine upon the basis of an engineering and traffic investigation that any maximum prima facie speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a turnpike constructed and maintained by it, taking into consideration the width and condition of the pavement and other circumstances on such portion of said turnpike as well as the usual traffic thereon, the Legislature hereby directs the Texas Turnpike Authority to determine and declare a reasonable and safe maximum prima facie speed limit thereat or thereon, by proper order of the Authority entered on its minutes, for all vehicles or for any class or classes of vehicles, which limit, when appropriate signs giving notice thereof are erected, shall be effective at such intersections or other places or part of the highway at all times or during hours of daylight or darkness, or at such other times as may be determined.

(b) The authority of the Texas Turnpike Authority to alter maximum prima facie speed limits shall be effective upon any part of any turnpike project constructed and maintained by it pursuant to House Bill No. 4, Chapter 410, Acts of 1953, 53rd Legislature, Regular Session, codified as Article 6674v, Vernon's Revised Civil Statutes of Texas as same may be amended, both within and without the corporate limits of any incorporated city, town or village, including Home Rule Cities. Such authority shall be exclusive with respect to any such project, and the authorities prescribed in Subsections 2 and 3 shall not apply upon any part of any such turnpike project; provided, however, that should any turnpike constructed by the Texas Turnpike Authority ever become a part of the designated State Highway System, the State Highway Commission shall then have the sole authority to alter maximum prima facie speed limits thereon as prescribed in Subsection 2. The Texas Turnpike Authority shall not have the authority to alter the basic rule established in paragraph (a) of Subsection 1 nor to establish a speed limit higher than seventy (70) miles per hour.

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For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

(c) The Texas Turnpike Authority shall, in conducting the engineering and traffic investigations specified in paragraph (a) of Subsection 2A, follow the 'Procedure for Establishing Speed Zones' prepared by the Texas Highway Department which is in use on the effective date of this Act and as same may be subsequently revised for reasons of technological advancements in traffic operation, design and construction of highways and motor vehicles, as well as the safety of the motoring public. Added Acts 1961, 57th Leg., p. 904, ch. 402, § 1.

Emergency. Effective June 17, 1961.

Obstructing turnpike, see art. 857.

Turnpike projects, see Vernon's Ann.Civ. St. art. 6674v.

**Art. 827e. Traffic signals on State Highways outside cities and towns**

Proof of existence of traffic-control device, prima facie proof of lawful installation, see art. 6701d-3.

**CHAPTER THREE—FERRIES, TOLL ROADS AND BRIDGES**

**Art. 857. Obstructing toll road**

Authority of turnpike authority to alter maximum prima facie speed limits on turnpike projects, see art. 827a, § 8, sub. 2A.

**CHAPTER SIX—GAME, FISH AND OYSTERS**

Art.

923f-1. Trapping, transporting and transplanting wild white-tailed deer [New].

Art.

923x. Possession, transportation and sale of live coypu [New].  
978l-7. Lake Texoma; fishing regulations [New].

**Art. 872. Game birds defined**

Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens or pinnated grouse, wild pheasants of all varieties, wild partridge and wild quail of all varieties, wild pigeons of all varieties, wild mourning doves and wild white-winged doves, wild snipe of all varieties, wild shore birds of all varieties, wild Mexican pheasants or chachalacas, wild plover of all varieties, and wild sand-hill cranes, are hereby declared to be game birds within the meaning of this Act. As amended Acts 1961, 57th Leg., p. 504, ch. 243, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 879g-1. Black tail deer west of Pecos River**

White-tailed deer, trapping, transporting and transplanting, see art. 923f-1.

**Art. 879h-1. Archery season on buck, deer, bear, turkey and collared peccary or javelina**

Acts 1961, 57th Leg., p. 684, ch. 320, § 1, effective 90 days after May 29, 1961, date of adjournment, read as follows:

"Section 2A of Chapter 189, Acts of the Fifty-sixth Legislature, Regular Session, 1959, as last amended by Chapter 30, Acts of the Fifty-sixth Legislature, Second Called

Session, 1959 (codified as Article 879h-1, Penal Code of Texas), is amended to read as follows:

"Section 2A. The provisions of this Act shall not be applicable in whole or in part to the following counties: Anderson, Angelina, Armstrong, Atascosa, Austin, Bailey,

Bandera, Baylor, Bee, Bell, Blanco, Borden, Bosque, Bowie, Brazoria, Brewster, Burnet, Caldwell, Calhoun, Callahan, Camp, Carson, Cass, Castro, Cherokee, Colorado, Comanche, Comal, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Deaf Smith, Delta, DeWitt, Dickens, Dimmit, Eastland, Ector, Edwards, Ellis, Erath, Fannin, Fayette, Fisher, Foard, Fort Bend, Franklin, Freestone, Frio, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hamilton, Hansford, Hardeman, Hardin, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hill, Hood, Hopkins, Houston, Howard, Hutchinson, Irion, Jackson, Jasper, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kleberg, Kimble,

King, Kinney, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Leon, Lipscomb, Live Oak, Llano, McCulloch, McMullen, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Mitchell, Montgomery, Moore, Morris, Nacogdoches, Newton, Nolan, Nueces, Ochiltree, Oldham, Panola, Parmer, Polk, Rains, Reagan, Real, Red River, Roberts, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Sterling, Stonewall, Sutton, Taylor, Terrell, Throckmorton, Titus, Tom Green, Trinity, Tyler, Upshur, Val Verde, Van Zandt, Victoria, Walker, Waller, Washington, Wharton, Wilbarger, Wilson, Wood, Zavala."

#### Art. 880. Hunting with dogs

Section 1. It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting of or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs and who permits or allows such dog or dogs to run, trail, or pursue any deer at any time shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than Twenty-five Dollars (\$25), and not more than Two Hundred Dollars (\$200); provided, however, that this Article shall not apply to the Counties of Brazoria, Matagorda, Wharton, and Fort Bend. And, provided, further, that it shall be lawful to use dogs for the purpose of trailing a wounded deer in the Counties of Kimble, Tom Green, Shackelford, San Saba, Blanco, Real, Wharton, Schleicher, Guadalupe, Jackson, Wilson, Concho, Karnes, Jones, Atascosa, Caldwell, De Witt, Gonzales, Haskell, Hays, Hidalgo, Kaufman, Cameron, Starr, Zapata, Angelina, and San Augustine. As amended Acts 1961, 57th Leg., 1st C.S., p. 134, ch. 30, § 1.

Emergency. Effective Aug. 13, 1961.

#### Art. 880a. Brazoria, Matagorda, Fort Bend or Wharton counties; use of dogs in the taking of deer

Section 1. From and after the effective date of this Act it shall be unlawful for any person to make use of a dog or dogs in the taking of any deer in Brazoria County, Matagorda County, Ford Bend County or Wharton County. As amended Acts 1961, 57th Leg., p. 247, ch. 127, § 1.

Emergency. Effective May 15, 1961.

#### Art. 881b. Open season and bag limit for migratory game birds; regulations

##### Purpose; regulations

Section 1. The purpose of this Act is to provide for the making of suitable regulations to govern the taking of certain migratory game birds, the taking of which is also governed by regulations made under the authority of the United States Government because of treaties affecting the conservation of migratory game birds between the United States Government and the Governments of Great Britain and the United States of Mexico. Such regulations as may be provided for under the provisions of this Act shall apply only to wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jack snipe, woodcock, mourning doves, white-winged doves and



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wild sand-hill cranes, which for the purpose of this Act are hereafter referred to as migratory game birds. As amended Acts 1961, 57th Leg., p. 504, ch. 243, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 895c. Hunting licenses; necessity; form; exemptions, etc.**

**Deer Tag**

Sec. 6. It shall be unlawful for any person to have in his possession at any time the carcass of any wild deer that does not have attached thereto a tag provided by the Game and Fish Commission, issued to such person under the provisions of this Act, bearing the date and place of kill of the deer to which attached. Such deer tag shall remain on said deer carcass while on storage and until such carcass is finally processed or destroyed. It shall be unlawful for any person to use more deer tags during one (1) license year than are originally provided by his hunting license for that year. It shall be unlawful for any person to use the same deer tag on more than one (1) deer. It shall be unlawful for any person to use a deer tag which was not issued to such person. Nothing in this Act shall be construed to authorize any person to exceed any bag limit or to hunt deer during closed season provided for deer; and the fact that a deer tag was attached to the carcass or hide of any deer shall not be prima facie evidence that such deer was lawfully killed. As amended Acts 1961, 57th Leg., p. 1044, ch. 463, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 901. Hunting from automobile, airplane or boat**

It is hereby declared unlawful for any person at any time and in any manner, except as herein provided, to hunt, take, capture, or kill, or attempt to hunt, take, capture, or kill any of the wild game birds, wild game fowl, or wild game animals, protected by the laws of this State, from an automobile, an airplane, a powerboat, a sailboat, any boat under sail, or any floating device towed by power-boat or sailboat. Any person so incapacitated as to render self-locomotion in pursuit of game hazardous to his health may, with a written authentication by a licensed physician of such an incapacity, hunt from an automobile, provided no attempt will be made by one so incapacitated to hunt upon any part of the road system of this State. Any person violating any of the provisions of this article shall be deemed guilty of misdemeanor and upon conviction shall be fined in a sum of not less than Twenty-Five Dollars (\$25) nor more than Two Hundred Dollars (\$200). As amended Acts 1961, 57th Leg., p. 1107, ch. 499, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

**Art. 923f—1. Trapping, transporting and transplanting wild white-tailed deer**

Section 1. The purpose of this Act is to prevent the wasting of surpluses of wild white-tailed deer in areas where present methods of harvest are inadequate for the maintenance of a balanced supply of this wildlife resource. In order to assure better utilization of surpluses of wild white-tailed deer, which have increased in some areas to such densities as to become a threat to the livestock and agricultural industries, and which, in other areas, are below carrying capacity, it is deemed for the public wel-

fare that this Legislature enact legislation adaptable to changing conditions so that the supply of this important wildlife resource may be kept more constantly adequate and that waste will be reduced.

Sec. 2. It shall be the duty of the Game and Fish Commission to issue to any person or persons qualifying under the terms of this Act a permit or permits for the trapping of wild white-tailed deer in overpopulated areas, where harvest provisions are inadequate for maintaining a balanced supply of this wildlife resource, and for transporting and transplanting such wild white-tailed deer into other areas of adaptable habitat for appropriate harvest. Such permits shall not entitle anyone to take, trap or reduce to possession wild white-tailed deer on any privately owned land without the landowner's express written permission.

Sec. 3. The trapping, transporting, and transplanting of wild white-tailed deer under permit issued by the Game and Fish Commission shall be accomplished at no expense to the State, with all costs to be borne by the person or persons obtaining the permit.

Sec. 4. Under the provisions of this Act, the Game and Fish Commission shall issue such permits for the trapping, transporting, and transplanting of wild white-tailed deer upon a showing satisfactory to it that there is an overpopulation of such deer in the area in which they are to be trapped and that the area to which such deer are to be removed and transplanted will be suitable therefor.

Sec. 5. It shall be unlawful to hunt, take, or kill wild white-tailed deer transplanted under terms of this Act except as provided by law for the hunting, taking, or killing of native wild white-tailed deer in the county to which such deer are transplanted. Acts 1961, 57th Leg., p. 426, ch. 208.

Emergency. Effective May 24, 1961.

Black tail deer west of Pecos River, hunting, see art. 879g—1.

Game and fish commission, see art. 973f—3.

**Art. 923m. Fur-bearing animals**

Possession, transportation and sale of live coypu, see art. 923x.

**Art. 923x. Possession, transportation and sale of live coypu**

Section 1. It shall be unlawful for any person to have in his possession, or to transport or sell any live coypu (nutria) unless he has obtained a written permit for such possession, transportation, or sale from the Game and Fish Commission.

Sec. 2. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200). Acts 1961, 57th Leg., p. 465, ch. 232.

Effective 90 days after May 29, 1961, date of adjournment.

and providing for the granting of permits by the Game and Fish Commission for such possession, transportation, or sale; providing penalties; and declaring an emergency. Acts 1961, 57th Leg., p. 465, ch. 232.

Fur bearing animals defined, see art. 923m.

**Title of Act:**

An Act regulating the possession, transportation, and sale of live coypu (nutria)

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For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

**Art. 941b. Minnows and rough fish, manner of taking**

Section 1. It shall hereafter be lawful to use a common funnel fruit jar type trap or its metallic counterpart, not longer than twenty-four (24) inches with throat no larger than one inch in diameter for the purpose of taking minnows for bait in the public waters of the State of Texas.

Sec. 2. It shall hereafter be lawful to use minnow seines not more than twenty (20) feet long and dip nets, cast nets, and umbrella nets of any size mesh constructed of nonmetallic materials for the purpose of taking bream, shad, carp, suckers, gar and buffalo fish from the public waters of the State of Texas. As amended Acts 1961, 57th Leg., p. 1121, ch. 508, § 1.

Effective 90 days after May 29, date of adjournment.

**Art. 954. Fish pond nets in gulf waters**

It shall be unlawful for any person, firm or corporation to erect, set, operate or maintain any fish pound net in any waters of the Gulf of Mexico within three nautical miles from the coast line of this State. Any person violating any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). As amended Acts 1961, 57th Leg., 1st C.S., p. 195, ch. 56, § 1.

Emergency. Effective Aug. 26, 1961.

**Art. 978j. Local game and fish laws**

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, art. 978j.

**Art. 978l—7. Lake Texoma; fishing regulations**

Section 1. The Game and Fish Commission of the State of Texas is hereby granted the authority to prescribe means, methods or devices for the taking of fish in the Texas portion of Lake Texoma located in Cooke and Grayson Counties, Texas.

Sec. 2. In that portion of the State of Texas referred to in Section 1 of this Act, it shall be unlawful to take or attempt to take any fish or to use any means, method or device in taking or attempting to take any fish except during such times and by such means, methods or devices and in such numbers as may be permitted in regulations issued under the directions and by the authority given in this Act.

Sec. 3. Before any regulations are issued under the authority given in this Act a public hearing shall be held in some city or town within twenty-five (25) miles of the area referred to in Section 1 of this Act. Notice shall be given of such public hearing ten (10) days in advance of said hearing. At such hearings any interested person shall be given an opportunity to inform the Game and Fish Commission of the State of Texas or its representatives of facts pertaining to the fish supply in the area referred to in Section 1 of this Act and of recommended regulations that may be made under the authority given in this Act in the public interest.

Sec. 4. Any regulation issued hereunder shall be effective on the date and for the period specified therein, but before such regulation shall become effective a copy of same shall be filed in the office of the Secretary of State and in the office of the county clerk of each county in which a

portion of the area named in Section 1 of this Act is situated and after the substance of said regulation is published in a newspaper in each county in which a portion of the area referred to in Section 1 of this Act is situated in the State of Texas.

Sec. 5. Any person who takes or attempts to take or possess any fish, or any person who uses any method or device for taking or attempting to take any fish from the area described in Section 1 of this Act, except when he does so under the authority granted in a regulation issued by the Game and Fish Commission of the State of Texas and then in effect, shall be deemed guilty of a misdemeanor and upon a conviction thereof shall pay a fine in a sum not less than Ten Dollars (\$10), nor more than One Hundred Dollars (\$100). Acts 1961, 57th Leg., p. 166, ch. 86.

Emergency. Effective May 1, 1961.

Fishing regulations in Lake Texoma, see art. 978j note.

#### Art. 978n—1. Game law for counties in 29th and 31st Senatorial Districts

##### Application of act; legislative policy

Section 1(a). This Act shall apply only to Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Cottle, Motley, Hale, Floyd, Bailey, Lamb and Cochran Counties.

(b) Legislative Policy. It shall be unlawful, except as provided in this Act, for any person to hunt, take, kill or possess, or attempt to hunt, take, or kill any game bird, or game animal in said counties at any time; or to take, kill, trap or possess, or attempt to take, kill or trap any furbearing animal in said counties at any time; or to take or attempt to take any fresh water fish by any means or method in said counties at any time. In order to better conserve an ample supply of the wildlife resources in said counties, to the end that the most reasonable and equitable privileges may be enjoyed by the people of said counties and their posterity in their ownership and in the taking of such resources, it is deemed for the public welfare that this Legislature should provide a law adaptable to changing conditions and emergencies which threaten depletion or waste of the wildlife resources in said counties. The Game and Fish Commission is therefore granted the authority, power and duty to provide, by proclamation, rule or regulation, from time to time, periods of time when it shall be lawful to take a portion of the wildlife resources of said counties, when its investigation and findings of fact disclose there is an ample supply of such wildlife resources, that a portion thereof may be taken which will not threaten depletion or waste of such supply. It shall also, by proclamation, rule or regulation, from time to time, provide the means and the method and the place and the manner in which such wildlife resources may be lawfully taken; provided, however, that it shall be unlawful for any person to hunt, take, kill or possess, or attempt to hunt, take or kill any game bird or game animal in said counties at any time; or to take or attempt to take any fresh water fish by any means or method in said counties at any time; unless the owner of the land or the water, or his duly authorized agent shall give consent thereto. As amended Acts 1961, 57th Leg., p. 330, ch. 176, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 14—TRADE AND COMMERCE

## CHAPTER TWO—FORGERY OF LAND TITLES, ETC.

Art. 1006. [947] [550] [451] "Forgery of patents," etc.

Theft of geological or geophysical map,  
see art. 1436f.

## CHAPTER FIVE—WEIGHTS AND MEASURES

Art. 1054. Deposit for installing service

For civil provisions without a penal  
clause, see Vernon's Ann.Civ.St., art. 1440.

CHAPTER ELEVEN—GASOLINE AND  
PETROLEUM PRODUCTS

Art. 1106a. Lubricating oils and greases; sale out of falsely labeled  
containers, pumps, etc.

Section 1. The term "person" as used in this Act shall include every natural person, firm, copartnership, association, or corporation and if any firm, copartnership, association, or corporation violates any of the provisions of this Act, every director, officer, agent, employee, or member participating in, aiding, or authorizing the act or acts constituting a violation of this Act shall be guilty of violating this Act, and shall be subject to the punishment herein provided.

Sec. 2. When any container, can, tank, pump, or other distributing device containing lubricating oils, greases, and similar products, bearing the name, trade-mark, symbol, sign, or other distinguishing mark of the lubricating oils, greases, or similar products originally placed in said container, can, tank, pump, or other distributing device by the original manufacturer, processor, or distributor, whose name, trade-mark, symbol, sign, or other distinguishing mark appears on such container, can, tank, pump, or other distributing device, shall be opened and any part of the contents thereof removed, it shall be unlawful for any person, except such original manufacturer, processor, or distributor, to refill, in whole or in part, or to re-use any such container, can, tank, pump, or other distributing device for the purpose of selling or offering for sale any lubricating oils, greases, or other similar products.

Sec. 3. When any person has in his possession any container, can, tank, pump, or other distributing device, which has been opened and refilled, as described in the above Section, such possession shall be prima facie evidence of possession thereof by such person for the purpose of sale.

Sec. 4. It shall be unlawful for any person, firm, or corporation, to disguise or camouflage his or their own equipment by imitating the design, symbol, trade name, or the equipment, under which recognized brands of gasolines, motor fuels, lubricating oils, greases, and similar products are generally marketed.

Sec. 5. No person shall expose or offer for sale or sell under any trade-mark, trade name, or name, or other distinguishing mark any gasolines, motor fuels, lubricating oils, greases, or other similar products, other than those manufactured or distributed by the manufacturer or distributor marketing such products under such trade name, trade-mark or name, or other distinguishing mark.

Sec. 6. No person shall aid or assist any other person in violating any of the provisions of this Act.

Sec. 7. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. As amended Acts 1961, 57th Leg., p. 1147, ch. 519, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Art.

1137e—1. Obtaining telecommunications service with intent to defraud [New].

Art. 1137e. Unlawful use of long distance telephone lines

Emergency telephone calls; obstruction and false claims, see art. 1334a.

Art. 1137e—1. Obtaining telecommunications service with intent to defraud

Section 1. The term "credit card" as used herein means an identification card or plate issued to a person, firm, or corporation by any person, firm, or corporation engaged in the furnishing of telecommunications service, which permits the person, firm, or corporation to whom the card has been issued to obtain telecommunications service on credit, and the term "credit card number" shall mean the card number appearing on such credit card.

Sec. 2. The term "telecommunications service" as used herein means service furnished by a public utility, including a telephone company, by which there is accomplished or may be accomplished the sending or receiving of information, data, messages, writing, signs, signals, pictures and sounds of all kinds, by aid of wire, cable, radio, or other means or apparatus.

Sec. 3. Any person, who with intent to defraud any person, firm, or corporation, of the lawful charge, in whole or in part, for any telecommunications service, shall obtain any telecommunications service without paying the lawful charge, in whole or in part, therefor:

(a) By charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the legitimate holder thereof; or

(b) By charging such service to a nonexistent, false, fictitious, or counterfeit telephone number or credit card number or to a suspended, terminated, expired, cancelled, or revoked telephone number or credit card number; or

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(c) By use of a code, prearranged scheme, or other similar stratagem;  
or

(d) By any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance,<sup>1</sup> or means, shall be guilty of a misdemeanor and shall, upon conviction thereof, be imprisoned in the county jail not exceeding one (1) year or fined not exceeding One Thousand Dollars (\$1,000), or both such fine and imprisonment.

Sec. 4. A prosecution under this Act may be maintained in any county in the State of Texas where any portion of the telecommunications service is rendered. Acts 1961, 57th Leg., p. 957, ch. 417.

<sup>1</sup> So in enrolled bill.

Emergency. Effective June 16, 1961.

Expired or revoked credit cards, use for purchase of motor vehicle supplies, see art. 1555b.

Obstruction of emergency telephone calls, see art. 1334a.

## TITLE 15—OFFENSES AGAINST THE PERSON

### CHAPTER FOUR—ASSAULT WITH INTENT TO COMMIT SOME OTHER OFFENSES

Art. 1160. [1026] [605] [500] Assault with intent to murder

Section 1. If any person shall assault another with intent to murder, he shall be confined in the penitentiary for not less than two (2) nor more than twenty-five (25) years, provided that if the jury finds that the assault was committed without malice, the penalty assessed shall be not less than one nor more than three (3) years confinement in the penitentiary; and provided further that in cases where the jury finds such assault was committed without malice but was made with a Bowie knife or dagger as those terms are defined by law, or with any kind or type of a knife, or in disguise, or by laying in wait, or by shooting into a private residence, the penalty shall be doubled. As amended Acts 1961, 57th Leg., p. 706, ch. 331, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## TITLE 17—OFFENSES AGAINST PROPERTY

## CHAPTER THREE—MALICIOUS MISCHIEF

Art.

1334a. Telephones; obstruction of emergency calls; false claims of emergency [New].

Art. 1334. [1228] [784] [677] Telegraph, telephone or electrical transmission lines

If any person shall intentionally break, cut, pull or tear down or in any manner injure any telegraph, telephone, or electrical transmission wire, post, machinery, or other necessary appurtenances to any such line knowingly, or in any way willfully obstruct or interfere with the transmission of messages or electricity along such telegraph, telephone or electrical transmission line, he shall be confined in the penitentiary not less than two (2) nor more than five (5) years or be fined not less than One Hundred Dollars (\$100) nor more than Two Thousand Dollars (\$2,000). As amended Acts 1961, 57th Leg., p. 1139, ch. 517, § 1.

Emergency. Effective June 17, 1961.

gation pending as of the effective date of this Act."

Section 2 of the amendatory act of 1961 provided: "This Act shall not apply to liti-

Art. 1334a. Telephones; obstruction of emergency calls; false claims of emergency

Section 1. Any person who shall wilfully refuse to immediately relinquish a party line when such line is needed for an emergency call to a fire department, or police department, or for medical aid or ambulance service, after having been informed that the line is needed for such emergency call, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), or shall be confined in the county jail for not more than one month, or both such fine and confinement.

Sec. 2. Any person who shall secure the use of a party line by falsely stating that such line is needed for an emergency call to a fire department or police station or for medical aid or ambulance service shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), or shall be confined in the county jail for not more than one month, or both such fine and confinement.

Sec. 3. "Party line" as used in this Section means a subscriber's telephone circuit, consisting of two (2) or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. "Emergency" as used in this Section, means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

Sec. 4. Every telephone directory hereafter distributed to the members of the general public in this state or in any portion thereof which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a notice which explains the offense provided



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for in Sections 1 and 2 of this Act, such notice to be printed in type which is not smaller than the smallest type on the same page and to be preceded by the word "warning" printed in type at least as large as the largest type on the same page; provided, that the provisions of this Section shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories, nor to any telephone directory heretofore printed or distributed to the general public. Once each year there must be enclosed in each telephone bill mailed to persons using party line telephones a notice of substance of the provisions of Sections 1 and 2 of this Act. Any person, firm or corporation providing telephone service which distributes or causes to be distributed in this state copies of a telephone directory which is subject to the provisions of this Section and from which the notice herein provided is wilfully omitted or who wilfully fails to enclose the notice required to be enclosed in bills by this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). Acts 1961, 57th Leg., p. 578, ch. 272.

Effective 90 days after May 29, 1961, date of adjournment. Title of Act:

Long distance line, unlawful use, see art. 1137e.

Obtaining telecommunications service with intent to defraud, see art. 1137e-1.

Profane language, use over telephone, see art. 476.

An Act making it a misdemeanor to maliciously obstruct emergency telephone calls, to secure the use of a party line by falsely claiming an emergency; providing penalties; and declaring an emergency. Acts 1961, 57th Leg., p. 578, ch. 272.

#### Arts. 1371, 1371a

Theft of dog, see art. 1442c.

### CHAPTER FOUR—TIMBERS AND LOGS

#### Art. 1379. 1289-90 Cutting, destroying or carrying away timber

Whoever without the consent of the owner thereof shall cut down or destroy any merchantable timber, under the value of One Hundred Dollars (\$100.), not his own except by accident or mistake, or whoever without the consent of the owner thereof shall carry away any merchantable timber, under the value of One Hundred Dollars (\$100.), not his own except by accident or mistake, shall upon conviction be fined not more than Two Hundred Dollars (\$200.) or shall be confined in jail not more than thirty (30) days or be punished by both such fine and confinement in jail. Whoever without the consent of the owner thereof shall cut down or destroy any merchantable timber, of the value of One Hundred Dollars (\$100.) or over, not his own except by accident or mistake, or whoever without the consent of the owner thereof shall carry away any merchantable timber, of the value of One Hundred Dollars (\$100.) or over, not his own except by accident or mistake, shall upon conviction be confined in the penitentiary not less than one (1) nor more than five (5) years. The words "merchantable timber" as used herein includes rails or other articles manufactured from merchantable timber; the word "owner" includes the state and any corporation, public or private, individual, partnership or association; the words "carry away" as used herein includes any taking of any merchantable timber and the removal thereof any distance from the place of taking, with the intent to deprive the owner of the value of the same, and to appropriate it to

the use and benefit of the person taking it. As amended Acts 1961, 57th Leg., p. 906, ch. 404, § 1.

Emergency. Effective June 17, 1961.

### CHAPTER EIGHT—THEFT IN GENERAL

<p>Art. 1436-2. Motor vehicles; dealer in vehicles for scrap, resale of parts, or salvage; surrender of unexpired license plates or certificates [New].</p>	<p>Art. 1436e. Shoplifting [New]. 1436f. Theft of geological or geophysical map [New].</p>
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#### Art. 1410. [1329] [858] [724] "Theft" defined

Theft of geological or geophysical map, see art. 1436f.

#### Art. 1419. [1338][867] [733] Domesticated animals and birds

Theft of dog, see art. 1442c.

#### Art. 1436—2. Motor vehicles; dealer in vehicles for scrap, resale of parts, or salvage; surrender of unexpired license plates or certificates

Any person, association of persons, corporate or other, who customarily engage in the business of obtaining motor vehicles for scrap disposal or resale of parts therefrom or any other form of salvage, shall immediately remove any unexpired license plates from such motor vehicle and place the same under lock and key. An inventory list of such plates showing the license number and the make and motor number of the motor vehicle from which such plates were removed shall be maintained on forms to be furnished by the State Highway Department. Upon demand the license plates and inventory lists shall be surrendered to the State Highway Department for cancellation. It is further provided that all Certificates of Title covering such motor vehicles obtained for scrap disposal, resale of parts or any other form of salvage shall, upon demand, be surrendered to the State Highway Department for cancellation. It shall thereafter be the duty of the State Highway Department to furnish a signed receipt for the surrendered license plates and Certificates of Title. Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by confinement in the county jail not less than ten (10) days nor more than one (1) year, or by both such fine and confinement. Acts 1961, 57th Leg., p. 1118, ch. 506, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Rebuilt vehicles, registration, see Vernon's Ann.Civ.St. art. 6675a—12b.

Junking motor vehicle, see art. 1436—1, § 37.

Unregistered vehicle, operation of, see Vernons' Ann.Civ.St. art. 6675a—16.

#### Art. 1436f. Theft of geological or geophysical map

Section 1. A "geological or geophysical map" is hereby defined to be any map, sketch, drawing, chart or graph, including the original or any copy or reproduction, or any part thereof, pertaining to the earth's surface or subsurface formations and relative to the location, presence or

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absence of conditions favorable for the accumulation of oil, gas or other minerals.

Sec. 2. Theft of a geological or geophysical map is the fraudulent taking of a geological or geophysical map from the possession of the owner thereof, or from the possession of anyone holding the same for such owner, without the consent of such owner thereof with intent to appropriate the same to the use or benefit of the person taking the same or for the benefit of anyone other than the owner thereof.

Sec. 3. Whoever shall commit the crime of theft of a geological or geophysical map, as defined herein, shall, upon conviction, be guilty of a felony and shall be confined in the penitentiary not less than two (2) nor more than ten (10) years, or shall be fined not less than Two Hundred Dollars (\$200) nor more than Five Thousand Dollars (\$5,000), or shall be punished by both such fine and imprisonment.

Sec. 4. Whoever shall receive, possess, reproduce, conceal, barter, sell, dispose of, or transport a geological or geophysical map which has been acquired by another in such a manner as that the acquisition comes within the meaning of the term theft of a geological or geophysical map as herein defined, knowing the same to have been so acquired, shall be punished in the same manner as if he had stolen such map.

Sec. 5. The provisions of this Act shall not be construed to apply to any geological or geophysical map, as defined herein, which has been filed with the Texas Railroad Commission or as a public record or which, by existing law, becomes a public record.

Sec. 6. This Act shall be cumulative of all laws of the State and any violation hereof may be prosecuted, irrespective of whether or not the acts complained of may constitute some of the essential elements of other or different offenses against the Penal Laws of this State. Acts 1961, 57th Leg., p. 575, ch. 270.

Emergency. Effective June 1, 1961.

Recording maps or plats of subdivisions of real estate, see art. 1137h.

Forgery of map, see art. 1006.

## CHAPTER TEN—THEFT OF ANIMALS

Art.

1442c. Theft of dog [New].

### Art. 1442c. Theft of dog

Whoever shall steal any dog shall, upon conviction thereof, be guilty of a felony and shall be confined in the penitentiary for not more than two (2) years or shall be fined not more than Five Hundred Dollars (\$500.). Acts 1961, 57th Leg., p. 902, ch. 400, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Title of Act:

Domesticated animals, theft, see art. 1419.

An Act making unlawful the stealing of any dog; making such offense a felony and prescribing punishment therefor; and declaring an emergency. Acts 1961, 57th Leg., p. 902, ch. 400.

Running at large, see art. 1371.

Unmuzzled dogs, see art. 1371a.

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CHAPTER ELEVEN—RELATING TO THE RECOVERY OF  
STOLEN ANIMALS AND THEFT THEREOF

Art. 1456a. Slaughterers to keep record of livestock purchased or  
slaughtered

Section 1. When used in this Act:

(a) The term "person" includes individuals, partnerships, associations, private corporations, municipal corporations and other public agencies.

(b) The term "slaughterer" means a person engaged in the business of slaughtering livestock for profit. The term "slaughterer" also includes those persons owning or operating a locker plant or plants and leasing, renting or furnishing space therein to others, for profit.

(c) The term "livestock" means cattle, hogs, sheep, and goats. As amended Acts 1961, 51st Leg., 1st C.S., p. 200, ch. 60, § 1.

Effective 90 days after Aug. 8, 1961, date of adjournment.

[5]. The Texas Animal Health Commission shall cause to be disseminated the provisions of this Article to those persons concerned and shall carry out occasional spot checks of places maintained by slaughterers to ascertain that the provisions of this Act are complied with. Added Acts 1961, 57th Leg., 1st C.S., p. 200, ch. 60, § 2.

Effective 90 days after Aug. 8, 1961, date of adjournment.

CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

Art. 1525b—3. Diseased cattle; sales, releases, diversions and deliveries; fines [New].

Art. 1525g. Transportation of animals and products under quarantine because of fever tick and screwworm infestation; treatment and certification [New].

Art. 1505a. Prevention of livestock diseases by regulating movement of livestock

Diseased cattle; sales, releases, diversions and deliveries, see art. 1525b—3.

Art. 1525b. Eradicating diseases among live stock and domestic fowls

Health certificate for foreign shipments into any county

Sec. 9. It shall be unlawful for any person, firm or corporation to ship, drive, drift, haul, lead or otherwise move from any state, territory or foreign country into any county in the State of Texas, or for any railroad company or other common carrier to haul, ship, or transport into any county in the State of Texas from any state, territory or foreign country, any cattle (except steers and spayed heifers), horses, mules, asses, sheep, goats, hogs, domestic animals or domestic fowls, except as hereinafter provided, unless the same are accompanied by a health certificate issued by a veterinarian authorized by or recognized by the Texas Animal Health Commission on a health certificate form prescribed in the rules and regulations of said Commission. The said Commission shall provide in its

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rules and regulations for authorizing and recognizing veterinarians of this state and of other states and Departments of the United States Government, and no veterinarian shall be considered as recognized or authorized by said Commission, except as provided therein. The said certificate shall show that said livestock, domestic animals, and domestic fowls were inspected by said veterinarian sometime within the preceding ten days before they entered the State of Texas, and that he found them to be free of all infectious and contagious diseases, as such are determined by the Texas Animal Health Commission to be dangerous to livestock, and that said animals were subjected to such tests, immunizations, and treatment as required under regulations adopted by said Commission. Any person, firm or corporation that shall ship, drive, drift, haul, lead or otherwise move into the State of Texas, or any railway or other common carrier that shall haul, ship, or transport into the State of Texas, any cattle (except steers and spayed heifers), horses, mules, asses, sheep, goats, hogs, domestic animals or domestic fowls, in violation hereof without the same being accompanied by said certificate shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each head of livestock and for each domestic animal or domestic fowl which said person, firm or corporation, railway or other common carrier ships, hauls, drives, drifts, transports, leads, or otherwise moves into the State of Texas in violation hereof. Cattle and sheep and hogs billed and shipped for immediate slaughter purposes shall be admitted into the State of Texas without certification, treatment, vaccination or testing. As amended Acts 1961, 57th Leg., p. 179, ch. 96, § 1.

Emergency. Effective April 27, 1961.

#### Rules and regulations for shipment

Sec. 10. Livestock shall not be considered as billed or shipped or intended for immediate slaughter purposes unless they are handled as provided in the rules and regulations of the Texas Animal Health Commission and accompanied by a written statement of this fact shown on the waybill, or bill of lading, express shipping papers, or if hauled by trucks or other vehicles the driver shall have in his possession a written statement of this fact. As amended Acts 1961, 57th Leg., p. 179, ch. 96, § 2.

Emergency. Effective April 27, 1961.

#### Specific health requirements; brucellosis agglutination tests; exemptions; tuberculin testing; permits; violations

Sec. 11. All livestock brought into the state shall be accompanied by an official health certificate stating that the animals are free from symptoms of infectious, contagious, and communicable diseases, and shall meet the specific health requirements as stated in this regulation.

All cattle except cattle exempt from testing in accordance with the rules and regulations of the Texas Animal Health Commission, over eight (8) months of age shall be required to show a negative brucellosis agglutination test within thirty (30) days prior to date of shipment. The following are exempt from this requirement:

1. Official calfhood vaccinated cattle under thirty (30) months of age;
2. Cattle originating from a certified brucellosis-free herd;
3. Cattle originating from a negative, non-quarantined herd, and a modified certified free area;

4. Steers and spayed heifers;
5. Cattle consigned to federally recognized slaughter establishments for immediate slaughter; approved livestock auction markets; and public stockyards; and approved feedlots.

Under no circumstances shall cattle originating in herds quarantined for any disease enter Texas. Any health certificate required herein shall be issued by a veterinarian recognized by the Texas Animal Health Commission. The Texas Animal Health Commission, in regulations adopted by said Commission, may prescribe the manner and method of tuberculin testing prior to entry into Texas and provide for permits to be secured authorizing said brucellosis and tuberculin tests to be conducted after arrival of cattle into Texas.

Any person, firm, corporation, railway or other transportation company that shall ship, drive, drift, haul, transport or otherwise move into the State of Texas any cattle in violation hereof shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum of not less than Twenty-five Dollars (\$25.00) per head nor more than One Hundred Dollars (\$100.00) per head for cattle shipped, driven, drifted, hauled, transported or otherwise moved into the State of Texas by said person, firm, corporation, railway or other transportation company in violation hereof. As amended Acts 1961, 57th Leg., p. 179, ch. 96, § 3.

Emergency. Effective April 27, 1961.

#### Shipments into State subject to brucellosis and tuberculosis testing

Sec. 13. All cattle, regardless of age, except steers, spayed heifers, and cattle shipped for immediate slaughter and such other cattle as may be exempt under regulations adopted by the Texas Animal Health Commission, which enter the State of Texas are subject to testing for brucellosis and tuberculosis by a veterinarian authorized in writing by the Texas Animal Health Commission, after their arrival in Texas, irrespective of whether said cattle were accompanied by the test chart prescribed in this Act, which test shall be made at the discretion of the Texas Animal Health Commission at any time within ninety (90) days after the said cattle enter the State of Texas. For the purpose of carrying out the provisions of this Section the said Commission or its Chairman may establish such restrictions or quarantines on said cattle as may be necessary, to insure their being retested as herein prescribed, provided that the Texas Animal Health Commission shall not adopt any regulations requiring tuberculin tests prior to entry into this state of grade cattle of beef breeds originating in non-quarantined herds in Modified Accredited Tuberculosis Free Areas. As amended Acts 1961, 57th Leg., p. 179, ch. 96, § 4.

Emergency. Effective April 27, 1961.

#### Art. 1525b—3. Diseased cattle; sales, releases, diversions and deliveries; fines

##### Definitions

Section 1. A. When used in this Act the term "diseased cattle" shall mean cattle affected with carcinoma, actinomycosis, actinobacillosis, mastitis or any other diseased condition (either infectious or non-infectious) which renders the carcass of such cattle potentially dangerous for human consumption and which has been so designated by the Texas Animal Health Commission.

B. When used in this Act the word "person" means every natural person and shall include the partners or members of partnerships and associations and the officers, agents and employees of corporations.

**Sale of diseased cattle; livestock markets or stockyards;  
slaughtering establishments; exemptions**

Sec. 2. It shall be unlawful for any person to sell diseased cattle except through established livestock markets or stockyards where visual inspection of livestock is made by an agent of the Texas Animal Health Commission or the United States Department of Agriculture or to recognize slaughtering establishments maintaining Federal, State or State-approved veterinary post-mortem inspection, except that the original owner of diseased cattle shall be exempt from the provisions of this Act when such diseased cattle are sold and delivered to the purchaser on the premises of the said original owner. This shall not be construed in any way to exempt the purchaser from the provisions of this and other Sections of this Act.

**Release of diseased cattle; consignment to terminal market or  
slaughtering establishment; certificate or permit**

Sec. 3. It shall be unlawful for any person to release any diseased cattle from an established livestock market or stockyard covered by Section 2 above except when consigned directly to a Federally approved terminal market or to a slaughtering establishment maintaining Federal, State or State-approved veterinary post-mortem inspection, and unless such cattle are accompanied by a certificate or permit issued by an authorized representative of the Texas Animal Health Commission or the United States Department of Agriculture naming such terminal market or slaughtering establishment.

**Voiding sales; list of approved establishments**

Sec. 4. Nothing in this Act shall prevent the original owner of diseased cattle, or his agent, from voiding the sale of said animals should he not be satisfied with the top bid price, providing that he removes said cattle from the market under a certificate or permit issued by an authorized representative of the Texas Animal Health Commission and then delivers said cattle to the place specified on said certificate or permit within five (5) days. In order for said owner or agent to be held liable under the penalties provided in this Act, said Representative of the Texas Animal Health Commission must show to said owner or his agent a list of approved establishments to which said cattle may be reconsigned and let said owner or agent select an establishment therefrom.

**Delivery or diversion to place other than terminal market**

Sec. 5. It shall be unlawful for any person to deliver or divert diseased cattle consigned under the certificate provided in Section 3 above to any place other than the terminal market or slaughtering establishment named in the certificate.

**Release from terminal market or slaughtering establishment**

Sec. 6. It shall be unlawful for any person to release any diseased cattle from any terminal market or slaughtering establishment to which such cattle have been consigned on the certificate provided in Section 3 and 5 above except upon authority of the Texas Animal Health Commission.

**Violation; misdemeanor; punishment**

Sec. 7. Any person performing an act declared to be unlawful herein shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100).

**Separate offenses**

Sec. 8. Each sale, release, diversion or delivery of a diseased animal in violation of this Act shall be a separate offense.

**Delay in shipping**

Sec. 9. Animals not arriving within five (5) days at the destination indicated on the shipping certificate shall be considered to have been diverted. Acts 1961, 57th Leg., 1st C.S., p. 48, ch. 20.

Emergency. Effective Aug. 11, 1961.

Title of Act:

Duty of veterinarians to report diseases, see art. 1525b—2.

Prevention of livestock diseases by regulating movements, see art. 1505a.

Slaughter and shipment of livestock, see Vernon's Ann.Civ.St. art. 6903 et seq.

An Act providing a fine for certain sales, releases, diversions and deliveries of diseased cattle; defining diseased cattle; and declaring an emergency. Acts 1961, 57th Leg., 1st C.S., p. 48, ch. 20.

**Art. 1525g. Transportation of animals and products under quarantine because of fever tick and screwworm infestation; treatment and certification**

**Transportation into state; fever tick infestation; dipping animals; certification**

Section 1. No person, firm, corporation or carrier shall move or transport or cause to be moved or transported in any manner into, across or through the State of Texas, from any area of another state, territory or foreign country which is under State or Federal Quarantine on account of fever tick infestation therein, any cattle, horses, mules, jacks, jennets, goats, sheep, hogs, exotic or circus animals unless such livestock have been dipped free of infestation or exposure thereto and are certified as having been so treated by an authorized inspector of the Animal Disease Eradication Division of the United States Department of Agriculture or of the Texas Animal Health Commission. A copy of said certificate shall accompany such animals to their final destination in Texas, or so long as they are moving through Texas.

**Transportation into state; screwworm infestation; treatment; certification**

Sec. 2. No person, firm, corporation or carrier shall move or transport or cause to be moved or transported in any manner into, across, or through the State of Texas, from any area of another state, territory or foreign country which is under State or Federal Quarantine on account of screwworm infestation therein, any cattle, horses, mules, jacks, jennets, goats, sheep, hogs, exotic or circus animals unless such livestock have been treated in a manner recognized by the Animal Disease Eradication Division of the United States Department of Agriculture and the Texas Animal Health Commission for the Eradication of Screwworm infestation and are certified as having been so treated and are free of screwworm infestation by an authorized inspector of the Animal Disease Eradication Division of the United States Department of Agriculture or of the



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Texas Animal Health Commission. A copy of said certificate shall accompany such animals to their final destination in Texas, or so long as they are moving through Texas.

**Transportation of products into state; fever tick infestation; treatment; certification**

Sec. 3. No person, firm, corporation or carrier shall move or transport or cause to be moved or transported in any manner into, across or through the State of Texas, from any area of another state, territory or foreign country which is under State or Federal Quarantine on account of fever tick infestation therein, any hay, straw, grasses, packing straw, pine straw, corn shucks, weeds, plants, litter, manure, dirt, posts, sand, gravel, caliche, or animal by-products for any purpose unless such product or products have been treated in accordance with the requirements of the Texas Animal Health Commission or the Animal Disease Eradication Division of the United States Department of Agriculture and are so certified as having been so treated by an authorized inspector of the Animal Disease Eradication Division of the United States Department of Agriculture or of the Texas Animal Health Commission. A copy of such certificate shall accompany such products to their final destination in Texas or so long as they are moving through Texas.

**Penalty**

Sec. 4. Any person, firm or corporation who violates any provision of this Act shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars, and the movement of each animal, each animal product or each shipment of hay, straw or other article enumerated herein shall constitute a separate offense. Acts 1961, 57th Leg., p. 230, ch. 118.

Emergency. Effective May 15, 1961.

Sheep, importation, see art. 1516.

Hauling or driving infected sheep or cattle, see art. 1525a, § 21.

Shipments of livestock and domestic fowls into state, tuberculosis testing, see art. 1525b, § 13.

Hog shipments, regulation, see art. 1525b, § 12.

Slaughter and shipment of livestock, see Vernon's Ann.Civ.St. arts. 6903 to 6910.

Prevention of livestock diseases by regulating movement of livestock, see art. 1505a.

Texas Animal Health Commission, see Vernon's Ann.Civ.St. art. 7009 et seq.

Quarantine territory, movement from without permit, see art. 1525c, § 21.

## TITLE 19—MISCELLANEOUS OFFENSES

## CHAPTER FOUR—AMUSEMENTS—PUBLIC HOUSE OF

Art. 1648a. Permit to sell, license, etc., for public performance for profit under blanket license of copyrighted dramatic or musical compositions

## Annual permit required

Section 1. Before any person shall sell, license, or otherwise dispose of any performing rights of any copyrighted musical or dramatic-musical composition to be exercised in this state under a blanket license such person shall first procure an annual permit to be known as a "Permit to Dispense Performing Rights Under a Blanket License" from the State Comptroller of Public Accounts for such privilege. As amended Acts 1961, 57th Leg., p. 890, ch. 391, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

## Fee for permit

Sec. 3. (a) Permits to Dispense Performing Rights Under a Blanket License must be issued to eligible applicants by the State Comptroller of Public Accounts, in a form prescribed by the State Comptroller.

(b) The annual fee for a Permit to Dispense Performing Rights Under a Blanket License shall be Fifty Dollars (\$50.) if less than ten (10) users are authorized to operate in this state by the holder of the permit; One Hundred Fifty Dollars (\$150.) if ten (10) or more but less than one hundred (100) users are authorized to operate in this state by the holder of the permit; and Two Hundred Fifty Dollars (\$250.) if one hundred (100) or more users are authorized to operate in this state by the holder of the permit. The fee must, in all cases, be based on the number of users in that month during the year preceding the effective date of the permit in which the permit holder or applicant authorized the greatest number of users to operate in this state. The fee must be paid before the permit is issued. All fees collected under this Act must be deposited by the Comptroller in the State Treasury to the credit of the General Revenue Fund.

(c) Initial permits may be acquired by an eligible applicant at any time, and are valid until the first day of April following issuance. The fee for initial permits shall be that fraction of the applicable annual fee formed by dividing the number of days the initial permit is valid by three hundred sixty-five (365). Renewal permits must be obtained annually between the last day of February and the first day of April of each year, and are valid for one (1) year, beginning on the first day of April following issuance. As amended Acts 1961, 57th Leg., p. 890, ch. 391, § 2.

Effective 90 days after May 29, 1961, date of adjournment.

## Copy of blanket license filed with Secretary of State

Sec. 4. Any person issuing a blanket license for performing rights in this state shall file with the Secretary of State, along with such per-

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son's initial or renewal application for a Permit to Dispense Performing Rights Under a Blanket License as required under this Act, a form copy of each type of blanket license then in effect in this state together with the affidavit of such person giving a list of all users holding each type of blanket license and the rates charged to each. As amended Acts 1961, 57th Leg., p. 890, ch. 391, § 3.

Effective 90 days after May 29, 1961, date of adjournment.

**Registration statement, filing with Secretary of State; designation of agent for service of process**

Sec. 5. Every person, whether incorporated or not, before issuing any blanket license for performing rights to any user to be exercised within this state, shall first file with the Secretary of State a registration statement giving (1) its correct corporate name if incorporated or, if not incorporated, the name under which it issues or intends to issue such blanket licenses to users for exercise in this state, (2) its Post Office address, and (3) the name and address of a registered agent in this state, which registered agent shall be an individual who is a resident of this state. There shall be filed with such registration statement a Power of Attorney designating such registered agent as its agent for service of process, which Power of Attorney shall be irrevocable except by the filing of a new Power of Attorney with the Secretary of State designating a new, duly qualified agent for service of process. The person filing such registration statement and Power of Attorney, whether incorporated or not, may, after filing same, sue or be sued in the courts of this state in the name given in such registration statement for the purpose of enforcing for or against it any substantive right; and any process, notice, or demand required or permitted by law to be served on such person in any suit, proceedings, or cause of action pending or hereafter filed in this state in which said person is a party or is to be made a party may be served on said registered agent. As amended Acts 1961, 57th Leg., p. 890, ch. 391, § 4.

Effective 90 days after May 29, 1961, date of adjournment.

**Filing registration statement and power of attorney required for issuance of permit**

Sec. 6. No permit to Dispense Performing Rights Under a Blanket License shall be issued unless the registration statement and Power of Attorney required by Section 5 of this Act are on file with the Secretary of State. As amended Acts 1961, 57th Leg., p. 890, ch. 391, § 4a.

Effective 90 days after May 29, 1961, date of adjournment.

**Filing complaint for violations; misdemeanor; penalty**

Sec. 8. The State Comptroller may file a complaint against any person failing to comply with or who violates any provision of this Act. Any person who has failed to comply with any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Five Hundred Dollars (\$500.) nor more than One Thousand Dollars (\$1,000.). Acts 1957, 55th Leg., p. 746, ch. 307, as amended Acts 1961, 57th Leg., p. 890, ch. 391, § 5.

Effective 90 days after May 29, 1961, date of adjournment.

## CHAPTER NINE—RAILROAD COMMISSION

Art.  
1690e. Agreement requiring carrier to pay charge contingent upon use of another mode of transportation [New].

Art. 1690e. Agreement requiring carrier to pay charge contingent upon use of another mode of transportation

Section 1. Any part of any agreement, arrangement or other device entered into shall be unlawful and void which as a condition to the transportation of property requires or permits a regulated for hire carrier of property, freight forwarder, private carrier or other carrier or shipper or association or group of shippers to pay a levied charge, allowance, assessment or compensation to any person or organization if such levied charge, allowance, assessment or compensation is dependent or contingent upon the use of another mode of transportation in addition to motor transportation for movement of such property.

Sec. 2. Should any person, firm, partnership, organization, or association of persons violate any of the provisions of this Act, they shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. Each day of the violation of any of the provisions of this Act shall constitute a separate offense. Added Acts 1961, 57th Leg., 1st C.S., p. 47, ch. 19.

Emergency. Effective Aug. 11, 1961.

## CHAPTER TEN—NURSERY STOCK

Arts. 1691, 1696, 1700

Rose plants, grading and labeling, see Vernon's Ann.Civ.St. art. 128a.

## CHAPTER TWELVE—COMMERCIAL FERTILIZER

Arts. 1709 to 1720. Repealed. Acts 1961, 57th Leg., ch. 37, p. 54, § 16.  
Effective Sept. 1, 1961

Subject matter is now covered by Vernon's Ann.Civ.St. art. 108a.

## CHAPTER FIFTEEN A—WATER SAFETY ACT [NEW]

## Art. 1722a. Water Safety Act

## Enforcement

Sec. 15. (a) All peace officers of this State and its political subdivisions, and in addition game wardens on Lake Texoma, Lake Texarkana, and Garza-Little Elm Lake, shall have and are hereby given authority as enforcement officers for the purposes of this Act, and they and each of them shall have the power and authority to enforce the provisions of this Act by arrest and the taking into custody any person who may commit any act or offense prohibited by this Act or any person who may violate any provision of this Act, provided, however, that such person shall not be taken into custody unless he first refuses to sign a promise to appear in court within thirty (30) days as provided below. As amended Acts 1961, 57th Leg., 1st C.S., p. 11, ch. 1, § 1; Acts 1961, 57th Leg., 1st C.S., p. 188, ch. 51, § 1.

Emergency. Effective Aug. 26, 1961.



# THE CODE OF CRIMINAL PROCEDURE

## TITLE 1—INTRODUCTORY

### CHAPTER TWO—GENERAL DUTIES OF OFFICERS

#### Art. 43. [51] Reports as to prisoners

On the first day of each month, the sheriff shall give notice, in writing, to the district or county attorney, where there be one, as to all prisoners in his custody, naming them, and of the authority under which he detains them. As amended Acts 1961, 57th Leg., p. 495, ch. 237, § 1.

Effective 90 days after date of adjournment.

## TITLE 2—COURTS AND CRIMINAL JURISDICTION

### DALLAS COUNTY CRIMINAL COURT OF APPEALS [NEW]

Art.  
52—159c. County Criminal Court of Appeals of Dallas County.

### HARRIS COUNTY—CRIMINAL DISTRICT COURTS NOS. 4 AND 5

#### Art. 52—158b. Criminal District Courts Nos. 4 and 5 of Harris County

Harris County Criminal District Court,  
see art. 52—25 et seq.

### DALLAS COUNTY CRIMINAL COURT

#### Arts. 52—159, 52—159a, 52—159b

County criminal court of appeals of Dallas County, see art. 52—159c.

### DALLAS COUNTY CRIMINAL COURT OF APPEALS [NEW]

#### Art. 52—159c. County Criminal Court of Appeals of Dallas County

Section 1. That there is hereby created a County Court to be held in and for Dallas County, Texas, to be called County Criminal Court of Appeals of Dallas County, Texas.

Sec. 2. The County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with the sole jurisdiction

within said County of all appeals from Criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Court, Corporation Courts and other municipal Courts in said County; and the said County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 4 of this Act.

Sec. 3. On the first day of the initial term of the County Criminal Court of Appeals of Dallas County, Texas, there shall be transferred to the docket of said Court, under the direction of the Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and by order entered on the Minutes of County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, all of such appeals from convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, now pending in County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, and all writs and processes theretofore issued by or out of the said Courts in such matters or proceedings shall be returnable to the County Criminal Court of Appeals of Dallas County, Texas, as though originally issued therefrom. All such new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Court or Judge to which said appeal is addressed shall be filed by said Clerk in the County Criminal Court of Appeals of Dallas County, Texas.

Sec. 4. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said Judge of the said County Court, except as insofar as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Appeals of Dallas County, Texas; and except such as to have heretofore been conferred upon the Judges of the County Court at Law No. 1 and the County Court at Law No. 2 of Dallas County, Texas.

Sec. 5. The County Criminal Court of Appeals, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws,



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in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court of Appeals, of Dallas County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court of Appeals, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court of Appeals, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 8. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 10. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Appeals, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court of Appeals, Dallas County, Texas." The Sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 11. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Ten Thousand Dollars (\$10,000) nor more than Fourteen Thousand, Four Hundred Dollars (\$14,400) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall not engage in the practice of law while in office.

Sec. 12. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall appoint an

official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 14. As soon as may be after this Act takes effect the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court No. 2 of Dallas County, Texas, and the clerk of the County Criminal Court No. 3 of Dallas County, Texas, may transfer to the docket of the County Criminal Court of Appeals of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and the County Criminal Court No. 2 of Dallas County, Texas, and the County Criminal Court No. 3 of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders, entered in the minutes of his Court, and the Judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 15. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and the Judge of County Criminal Court of Appeals of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same. Acts 1961, 57th Leg., p. 698, ch. 326.

Emergency. Effective June 16, 1961.

County criminal courts of Dallas County, see arts. 52—159, 52—159a, 52—159b.

Criminal district courts of Dallas County, see arts. 52—1, 52—8, 52—24c.

Dallas county court at law no. 1, see Vernon's Ann.Civ.St. art. 1970—1 et seq.

Dallas county court at law no. 2, see Vernon's Ann.Civ.St. art. 1970—15 et seq.

Dallas county probate court, see Vernon's Ann.Civ.St. art. 1970—31a.

Special criminal district court of Dallas County, see art. 52—24b.

#### BEXAR COUNTY CRIMINAL DISTRICT COURT

Art. 52—161. Criminal Judicial District of Bexar County; creation, jurisdiction, officers, etc.

*Designation of Criminal Judicial Court of Bexar County and Criminal Judicial District Court No. 2 of Bexar County as the 144th and 175th Judicial District Courts, respectively, by Acts 1961, 57th Leg., ch. 24, p. 38, § 1, see Vernon's Ann.Civ.St. art. 199 (144).*

**TITLE 3—THE PREVENTION AND SUPPRESSION OF  
OFFENSES, AND THE WRIT OF HABEAS CORPUS**

**CHAPTER SEVEN—HABEAS CORPUS**

**Art. 113. [160—161] What writ is**

Habeas corpus to secure release of inmates having contagious disease, see Vernon's Ann.Civ.St. art. 3183f.

**TITLE 8—TRIAL AND ITS INCIDENTS**

**CHAPTER SEVEN—EVIDENCE IN CRIMINAL ACTIONS**

**5. MISCELLANEOUS PROVISIONS**

Art.

733a. Interpreters for deaf or deaf-mute persons [New].

**5. MISCELLANEOUS PROVISIONS**

**Art. 733a. Interpreters for deaf or deaf-mute persons**

(a) In all criminal prosecutions, where the accused is deaf or a deaf-mute, he shall have the proceedings of the trial interpreted to him in a language that he can understand by a qualified interpreter appointed by a court.

(b) In all cases where the mental condition of a person is being considered and where such person may be committed to a mental institution, and where such person is deaf or a deaf-mute, all of the court proceedings pertaining to him shall be interpreted by a qualified interpreter appointed by the court.

(c) In any case where an interpreter is required to be appointed by the court under this Act, the court shall not commence proceedings until the appointed interpreter is in court in a position not exceeding ten (10) feet from and in full view of the deaf person.

(d) The interpreter appointed under the terms of this Act shall be required to take an oath that he will make a true interpretation to the person accused or being examined, which person is deaf or a deaf-mute, of all the proceedings of his case in a language that he understands; and that he will repeat said deaf or deaf-mute person's answer to questions to counsel, court, or jury, in the English language, in his best skill and judgment.

(e) Interpreters appointed under the terms of this Act shall be paid for their services a sum to be determined by the court. Acts 1961, 57th Leg., p. 760, ch. 351, § 1.

Effective 90 days after May 29, 1961, date of adjournment.

Appointment of interpreters in civil actions, see Vernon's Texas Rules of Civil Procedure, Rule 183.

Title of Act:

An Act relating to the appointment by the court of interpreters for any person who is deaf or a deaf-mute, in criminal prosecutions and causes in which such person may be committed to a mental institution; and declaring an emergency. Acts 1961, 57th Leg., p. 760, ch. 351.

**TITLE 10—APPEAL AND WRIT OF ERROR**

**Art. 856.** 949, 915    Hearing in appellate court

**RULES OF THE COURT OF CRIMINAL APPEALS<sup>1</sup>**

Adopted and Re-adopted March 20, 1958

No amendments to September 18, 1961

**TITLE 13—INQUESTS**

**1. UPON DEAD BODIES**

**Art. 989a.** Medical examiners; counties of 120,000 or more

**Office Authorized**

Section 1. The Commissioners Court of any county having a population of one hundred twenty thousand (120,000) or more, according to the last preceding Federal Census, may establish and provide for the maintenance of the office of Medical Examiner subject to the provisions of this Act. As amended Acts 1961, 57th Leg., p. 702, ch. 327, § 1.

Emergency. Effective June 16, 1961.

**Transfer of Duties of Justice of Peace**

Sec. 12. When the Commissioners Court of any county having a population of one hundred twenty thousand (120,000) or more, according to the last preceding Federal Census, shall establish the office of Medical Examiner, all powers and duties of Justices of the Peace in such county relating to the investigation of deaths and inquests shall vest in the office of Medical Examiner. Any subsequent general law pertaining to the duties of Justice of the Peace in death investigations and inquests shall apply to the Medical Examiner in such counties to the extent not inconsistent with this Act, and all laws or parts of laws otherwise in conflict herewith are hereby declared to be inapplicable to this Act. As amended Acts 1961, 57th Leg., p. 702, ch. 327, § 1.

Emergency. Effective June 16, 1961.

## TITLE 15—COSTS IN CRIMINAL ACTIONS

## CHAPTER TWO—COSTS PAID BY THE STATE

## Art. 1036. 1138, 1003 Witness fees

(4) The District or Criminal District Judge, when any such claim is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve same, in whole or in part, or disapprove the entire claim, as the facts and law may require; and such approval shall be conditioned only upon and subject to the approval of the State Comptroller, as provided for in Article 1035 of the Code of Criminal Procedure; and said claim with the action of the Judge thereon shall be entered on the Minutes of said Court; and upon the approval of said claim by the Judge, the Clerk shall make a certified list of said claim, upon forms prescribed by the Comptroller, furnishing such information as required by him, and send the same to the Comptroller at such times as he may require. No fee shall be required of the witness for the services herein provided, unless the claim exceeds the sum of Three Dollars (\$3), in which event the fee to the Clerk shall be fifty cents (50¢). As amended Acts 1961, 57th Leg., p. 32, ch. 20, § 1.

<sup>1</sup> Probably should be "1093".

Effective 90 days after May 29, 1961, date of adjournment.



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76	202	9	1434a, § 9	9	9	1	1302, § 108 Repealed
467	1795	1	57 P.C. 666-57	101	185	1	1302, § 39a Repealed
467	1795	2	5A P.C. 667-5A	107	191	1	1302, § 108 Repealed
467	1795	2	5B P.C. 667-5B	108	64	1	1327a Repealed
<b>1937 (45th Leg.) Regular Session</b>				260	483	—	1302g Repealed
125	229	25A	6243c, § 25A	340	655	28	8280-137, § 28
<b>1941 (47th Leg.) Regular Session</b>				452	834	—	1302h Repealed
7	10	4a	6081g, § 4a	576	1122	—	1395a Repealed
<b>1947 (50th Leg.) Regular Session</b>				<b>1951 (52nd Leg.) Regular Session</b>			
47	62	1(a)	678d, § 1(a)	5	5	1	1302, § 7 Repealed
237	431	1	1302d, §§ 1, 1a	20	26	1	1327 Repealed
286	489	1	1302, § 106 Repealed	126	214	1	1538n Repealed
286	489	1	1302e Repealed	136	137	1	1302, § 108 Repealed
313	533	1	1302, § 95a Repealed	166	284	1	1314 Repealed
383	774	1	1302, § 107 Repealed	361	609	1(a)	2815n, § 1(a)
408	954	—	1302f Repealed	361	609	2(a)	2815n, § 2(a)
422	1002	1	1302, § 105 Repealed	<b>Ch.</b>	<b>P.</b>	<b>Art.</b>	<b>Art.</b>
				482	1079	224	Elec.Code 13.47a
				492	1097	32b	Elec.Code 4.11

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			Repealed	11	21	4	Severability
79	125	1	1302, § 38	11	21	5	Emergency
			Repealed	12	22	1	2922-16b
155	468	1	1529	12	22	2	Emergency
			Repealed	13	23	1-3	2603b-2
234	591	1	1302i	13	23	4	Emergency
			Repealed	14	24	1, 2	6819a-27
295	748	1	1302, § 95	14	24	3	Severability
			Repealed	14	24	4	Emergency
<b>1954 (53rd Leg.) First Called Session</b>				15	25	1	326k-41a
43	93	4(a)	1269j-5, § 4(a)	15	25	2	Repeal
<b>1955 (54th Leg.) Regular Session</b>				15	25	3	Emergency
133	471	1-31	6132a	16	26	1	135c, § 1
			Repealed	16	26	2	Emergency
222	646	—	1302d-1	17	27	1	7260
			Repealed	17	27	2	7260 note
293	802	—	717j	17	27	3	Emergency
			Repealed	19	31	1	7466i, § 1, art. VII(c)
427	1137	4(a)	3883i, § 4(a)	19	31	2	7466i, § 2
444	1161	—	1334b Repealed	19	31	3	7466i note
483	1209	1	1538h Repealed	19	31	4	Repeal
				19	31	5	Emergency
<b>1957 (55th Leg.) Regular Session</b>				20	32	1	C.C.P. 1036(4)
192	391	1-4	326k-40	20	32	2	Emergency
			Repealed	21	33	1	4419c, § 1
453	1331	2A	1970-110C, § 2A	21	33	2	4419c, § 3
			Repealed	21	33	3	Emergency
				22	35	1, 2	6228a-4
				22	35	3	Severability
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<b>1957 (55th Leg.) Second Called Session</b>				22	35	4	Emergency
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				23	36	2	Repeal
				23	36	3	Emergency
<b>1961 (57th Leg.) Regular Session</b>				24	38	1-5	199(144)
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Adjourned May 29, 1961				25	39	1	6819a-19a
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2	4	1	2783d	25	39	3	Emergency
2	4	2	Emergency	27	41	1	Tax-Gen 12.03
3	5	1	2757	27	41	2	Emergency
3	5	2	Severability	28	42	1	Prob.Code 389(g)
3	5	3	Emergency	29	43	1	Prob.Code 58a
4	7	1	695h, § 1(c)	29	43	2	Emergency
4	7	2	Emergency	30	44	1	342-301
5	8	—	8198 note	30	44	2	Prob.Code 3(d)
6	11	—	P.C. 978j note	30	44	3	7425b-25L
7	11	1-5	326k-38a	30	44	4	Emergency
7	11	6	Repeal	31	46	1	Prob.Code 105a
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8	13	1	8280-9, § 14	32	48	1	8280-162, § 7
8	13	2	8280-9, § 15	32	48	2	Emergency
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9	15	1-4	2815g-53	34	52	3	Emergency
9	15	5	Severability	35	53	1	2603b-2
9	15	6	Emergency	35	53	2	Emergency
10	19	1	4494q, § 1	36	53	—	P.C. 978j note
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39	64	2	Emergency
40	65	—	P.C. 978j note
41	69	1	6819a-28
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80	157	1	2815n, § 5
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95	178	2	Severability	117	228	1	2843
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96	179	2	P.C. 1525b, § 10	118	230	6	Severability
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102	192	3	Severability	122	235	1-7	Ins.Code 21.21—1
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## ABBREVIATIONS

Bus Corp	Business Corporation Act.
CCP	Code of Criminal Procedure.
Const	Constitution.
Elec Code	Election Code.
Ins Code	Insurance Code.
Non-Profit Corp	Non-Profit Corporation Act.
PC	Penal Code.
Prob Code	Probate Code.
RCP	Rules of Civil Procedure.
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1022

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